JOURNAL

OF

COMPARATIVE LEGISLATION

AND

INTERNATIONAL LAW

EDITED FOR

THE SOCIETY OF COMPARATIVE LEGISLATION

BY

F. M. GOADBY, Esq., D.C.L.

Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

THIRD SERIES. VOL. XIX. PART III.

LONDON:
SOCIETY OF COMPARATIVE LEGISLATION,
1 ELM COURT, TEMPLE, E.C.4.
1937.

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All communications to be addressed to the Hon. Editor,
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The Annual Subscription to the Society is one guinea.

Printed in Great Britain by
Hazell, Watson & Viney, Ltd., London and Aylesbury

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The thanks of the Committee are offered to the following :—

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ANNUAL REPORT.

THE loss which the Society sustained early in the year under review in the death of its President, the late Marquess of Reading, was mentioned in the last Annual Report. The Committee now have the pleasure to extend a cordial welcome to his successor, the Rt. Hon. S. M. Bruce, High Commissioner for Australia, who has honoured the Society by becoming its President.

The Committee are glad to report that the Hon. Vincent Massey, the Rt. Hon. T. M. Cooper, K.C., M.P., Lord Advocate, Sir John Houldsworth Shaw, Solicitor to the Inland Revenue, the Hon. Mr. Justice Fabre Surveyer, the Hon. Newton Rowell, K.C., Chief Justice of Ontario, and Mr. Clement Davies, K.C., M.P., have consented to become members of the Council. They acknowledge gratefully the acceptance by Mr. Richard O'Sullivan, K.C., Professor Hughes Parry and Mr. Owen Jones of the invitation to become members of the Executive Committee.

Since the foundation of the Society considerable interest has been shown in its work by representative bodies of business men who have realized that uniformity of laws simplifies and advances commercial relations. The Committee have valued highly the co-operation on the Council and Committee of eminent business men and economists. In pursuance of this association the Committee welcome the accession to the Council of Mr. Neville Dixey, former Chairman of Lloyds, Herr Abr. Frowein, President of the German National Committee of the International Chamber of Commerce, and Mr. Martin Hill, Joint Secretary of the Liverpool Steamship Owners Association, and to the Committee of Mr. D. H. J. Hartley of the Federation of British Industries.

It is with a deep sense of loss that the Committee have to record the death during the year under review of the Hon. Sir Littleton E. Groom, Speaker of the Federal House of Representatives of the Commonwealth of Australia. For many years, first as a member of the Society and subsequently on the Council, he was an unfailing friend of the Society and took an active interest in its work. He was responsible for the annual summary of the Queensland legislation from 1912 until 1931, when pressure of work made relinquishment necessary.

The Society sustained another severe loss in the death at the end of the year of the Hon. Harcourt Malcolm, Speaker of the Bahamas House of Assembly. His interest in the work was shown in his endeavour to enlist the interest of the Bahamas Bar Association, and for thirty years he was the unfailing contributor of the summary of Bahamas legislation.

Yet another contributor was lost to the Society in the death of Judge Zichy-Woinarski, who for more than thirty years, first in collaboration with the late Sir Harrison Moore and, more recently, with his son, contributed the summary of the legislation of Victoria. As a recognition of his work for the Society the Committee had invited him to become a

member of the Council. It is deeply regretted that death intervened before the invitation reached him.

During the year arrangements were completed whereby the Society's library, known as the Schuster Library of Comparative Legislation, was presented to the Library of the London School of Economics and Political Science. The Committee desire to express their thanks to the Trustees for their extension of the privilege of free admission to the Library to members of the Society.

The Committee have again to place on record their high appreciation of the support accorded by the four Inns of Court, the Law Society, the Inn of Court of Northern Ireland, the Canadian Bar Association and the Government of Fiji.

The financial statement for the year is affected by the fact that it was necessary to sell £100 War Loan in order to meet current expenditure. This was due to the amount received from the sale of back numbers of the *Journal* of the Society being much below the average of the last ten years. Members of the Society desiring to dispose of back numbers, especially the earliest issues, can assist its work by offering them to the Secretary. There is a constant demand for sets of the *Journal* which cannot be met for lack of some numbers. The decrease in the receipts from sales is to some extent offset by an increase of £11 in the amount received from advertisements.

The regular income of the Society shows a welcome increase owing to an accession of new members. There is a net gain of thirty-four in the total number. Another 150 members, however, are required in order to regain the figure before the general economic depression led to the resignation of a large number of members. The Committee desire to express their appreciation of the regularity with which subscriptions are paid, with the result that there were only a few outstanding at the end of the year.

The reduction in the cost of printing enabled larger issues of the *Journal* to be produced with only a slight increase in the printers' accounts. The Committee take this opportunity to commend the care with which the work of the printers is done and the uniformly high standard maintained in the production of the *Journal*.

The year has been marked by the loss of an exceptional number of old friends and supporters, and since its close the Society has also had to lament the death of the Rt. Hon. Sir Frederick Pollock, who showed his continued interest in the work of the Society by his presence at the Dinner given to the Chairman in December 1935. At the same time the accessions to the Council and Executive Committee afford evidence of renewed vitality and show that the objects of the Society still secure the support of men eminent in law and public affairs. The Committee are confident that members of the Society will recognize the appropriateness of having at its head a representative of the Dominions, since its particular sphere of interest has always been the study of the laws of the British Empire. There has never been a time when there was more need for law to make its contribution to the strengthening of the unity of the Empire, and the study of comparative legislation in particular has a special bearing upon the development of economic relations. The Committee are able to look forward with confidence to the growth of the Society's work and membership.

MACMILLAN, *Chairman.*

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1936. *Cr.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Subscriptions:			By Publication of *Journal*:		
General	434 14 0		Printing vol. xvii, pt. 4.	154 17 2	
Government	157 10 0	592 4 0	Printing vol. xviii, pt. 1	149 1 9	
„ Grants:			Printing vol. xviii, pt. 2	116 12 8	
Law Society	21 0 0		Printing vol. xviii, pt. 3	105 10 4	
Lincoln's Inn	21 0 0			526 1 11	
Middle Temple	21 0 0		*Add* Cost of Paper	22 9 0	548 10 11
Gray's Inn	21 0 0				
Inner Temple	21 0 0		„ Salary of Secretary		250 0 0
Canadian Bar Association	9 18 3		„ Rent of Chambers	100 0 0	
Northern Ireland Inn of Court	5 5 0		*Less* Rent received	40 0 0	60 0 0
Government of Fiji	5 0 0				
P. K. Hodgson	1 1 0	126 4 3	„ Lighting, Heating and Cleaning of Chambers		19 1 11
			„ General Expenses, including Postage and Insurance		31 14 4
„ Sale of *Journals*	26 15 0		„ Telephone		8 6 6
Less Cost of Back Numbers and Reprints	1 7 6	25 7 6	„ Stationery and Printing		20 14 0
			„ Audit of Accounts		3 3 0
„ Proceeds of Advertisements		19 8 0			941 10 8
„ Sale of *Great Jurists of the World*		18 5			
„ Interest on £300 3½% War Loan—Half-year to June 1, 1936		4 0 2			
„ Interest on £200 3½% War Loan—Half-year to December 1, 1936		2 13 5			
		770 15 9			
„ Cash at January 1, 1936:					
In hand	5 12 2				
At bank	107 9 1	113 1 3			
„ Subscriptions in arrear paid in 1936		11 11 0	„ Cash at December 31, 1936:		
„ Subscriptions in advance paid in 1936		43 0 0	In hand	7 4 2	
„ Proceeds of Sale of £100 3½% War Loan		106 17 9	At bank	96 10 11	103 15 1
		£1,045 5 9			£1,045 5 9

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3½% War Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
February 11, 1937.

CASH, STONE & CO.
Chartered Accountants.

INTRODUCTION.

[*Contributed by* F. M. Goadby, Esq., D.C.L.]

The legislation of 1935 was varied in character, but in very few territories did it present any novel features. A readable conspectus is difficult to compile. In this Introduction the grouping follows the lines previously adopted with such modification as the special character of the legislation of the year requires. As is usual the bulk of new law deals with economic interests—organizing, controlling, assisting; second in order of importance comes legislation dealing with what may in a general sense be termed interests of a common social character—housing, open spaces, the liquor trade, betting, entertainments and the like. Criminal Law and Procedure and Civil Law regulating private interests call less for constant change.

We regret that the Summaries of Legislation in New Brunswick, New South Wales and Ceylon have not been received in time for publication. Otherwise we are able to present summaries of the legislation for the year under review in every part of the Empire, including Mandated territories, with very small exceptions. It is a regret to us that British Honduras is always missing; if any contributor is able to supply this gap, we should be much indebted. The same is true of the Falklands, Somaliland and a few scattered islands mainly in the West Indies. This year we have the pleasure to include a Summary from Sarawak. Like the Mandated areas, Sarawak is not within the Empire, but the general character of the administration is British and it is with areas controlled by British ideas, rather than with areas actually part of British territory, that we are concerned.

Constitutional Law.—Few changes are to be noted in this sphere, if we except—and it is, indeed, a large exception—the Government of India and the Government of Burma Acts (p. 2); of these it is not necessary here to speak further, since thay are sufficiently dealt with in other numbers of the *Journal*. Apart, then, from these we may note the House of Commons (Disqualification) Act (p. 1) and echo Dr. Carr's prayer for a consolidation of the whole law upon the subject. South Africa allowed to its Members of Parliament a slightly extended leave of absence without penalty (p. 116). Victoria, apparently after long hesitation, has permitted civil servants to seek election as Members of Parliament, though their employment ceases upon election (p. 87), and South Australia—more austere than experience has shown Great Britain to be—continued its reductions of Ministerial and Members' salaries (p. 80). Mention may also be made here of the Irish Nationality and Citizenship Act (p. 28) and the ensuing Aliens Act (p. 29) the ingenuity of which is typical of the Irish spirit and manifests a Hamlet-like hesitation as to whether to be or not to be within the British Commonwealth of Nations.

Local Government.—The entries in our Index under this head are some-

what formidable in number, but most of the legal changes are mainly of local interest. Note, however, that in the Irish Free State the municipal franchise was extended to every citizen, without distinction of sex, who has attained the age of twenty-one years (p. 30). Alberta gave power to the Minister to dismiss a municipal council or any members thereof when the public interest so required; in lieu of directing a new election an official administrator may be appointed (p. 43). So also in British Columbia the Minister on discovery of maladministration of municipal sinking funds may take over the administration thereof (p. 47), and in Nova Scotia the Municipal Affairs (Supervision) Act created a Department of Municipal Affairs with certain powers of control but the aim of which was also to facilitate administration (p. 51). The amending Municipal Ordinance of the Cape of Good Hope made new provisions as to municipal contracts and gave power to a council to claim arrears of rates in respect of years in which the property had been exempted by mistake (p. 123). In Natal, the borough of Durban was elevated to City rank (p. 125). Bengal and the Central Provinces record measures dealing with village local boards, extending the franchise, granting increased powers, but reserving to the Government powers of dissolution and the like.

Economic Organization.—The reorganization of the herring industry in Great Britain followed the recommendations of the Sea Fish Commission (p. 7). The Irish Free State in a lengthy Act provided for control and marketing of bacon and regulation of the price of pigs (p. 30). The Dominion Natural Products Marketing Act of Canada was amended (p. 38), but the amending, in common with the principal, Act has been since declared invalid. An important Canadian enactment, however, provides for the establishment and operation of the Canadian Wheat Board for the marketing of wheat in interprovincial and export trade (p. 39). In Saskatchewan, legislation for the development of the Coal Mining industry followed on the report of a Commission (p. 59) and in Quebec the grading, marketing sale, etc., and transportation of Agricultural Products was strictly controlled (p. 54). In that province also a Department of Municipal Affairs, Trade and Commerce was established and organized for the purpose (*inter alia*) of favouring the advancement and development of trade and commerce (p. 55). In Newfoundland the Cod-fish Industry has once more been subjected to regulation (p. 61).

Further examples of legislative control of trade may be cited from Australia; Dairy Produce, Meat, Canned Fruits, Dried Fruits were all the subject of legislation in 1935 (pp. 65–66). The effect thereon of s. 92 of the Commonwealth Constitution has since been considered by the Judicial Committee. Further Commonwealth legislation was passed in relation to the Wheat Industry (p. 67). Following upon the Geneva Convention of 1931 as to Whaling we have a Commonwealth Whaling Act (p. 67) with complementary legislation in Queensland (p. 69) and also a New Zealand Act (p. 101). The Marketing of Primary Products was the subject of legislation in Queensland (p. 70) and a scheme which originated, it would seem, in that State, has been adopted now in Victoria (p. 88). The latter State also followed Queensland and New South Wales in adopting a scheme to secure a home-consumption price for wheat (p. 90) and legislated with a view to assist in the search for oil within its territory (p. 91) a commodity the discovery of which is probably more to be desired than gold, yea, than much fine gold. In Western Australia a particular company was given for twenty years the sole right of handling wheat in

bulk for purposes of transport. Our correspondent explains (p. 96) why this surprising monopoly may perhaps be justified.

In South Africa we note the establishment of a Tobacco Control Board with corresponding powers (p. 111). Similar Boards were also set up to control the Wheat and Mealie Industries (p. 122). Northern Rhodesia passed an Ordinance dealing with the Marketing of Maize (p. 128) and in Southern Rhodesia an important enactment consolidated and amended the Mining law (p. 129). Bee-keeping invited the attention of the Trinidad legislature (p. 173) and the Banana, Sea Cotton and Sisal Industries called for control and assistance in various of the West Indian Islands.

In Kenya the Marketing of Native Produce was controlled and regulated (p. 160). The Ordinance is designed to advance and improve the cultivation of produce grown by natives. It provides for the restriction of the purchase of specified classes of native products to holders of licences issued by the District Commissioners. This seems a Gilbertian method of encouraging cultivation, but no doubt greater knowledge of the circumstances would resolve the seeming contradiction.

Protection of Industry.—The organization of industry is a method of protecting its standards. More direct protection was afforded by a levy in Southern Rhodesia on African exports of cattle, the proceeds being used to pay bounties to favour overseas export (p. 129). Australian oranges also are exported under bounty (p. 63). Subsidies on cattle and sugar were prolonged in the United Kingdom. In Trinidad a loan was authorized for the purpose of paying a subsidy for the relief of the cocoa industry (p. 174).

The special protection of farmers and those engaged in similar occupations from the results of the depression is still necessary in many territories. Alberta has an Agricultural Industry Stabilization Act which seeks to protect farmers against landlords, mortgagees and creditors generally (p. 41). In South Australia a Government authority " formulates and carries out schemes for satisfying the liabilities " of " primary producers " by a cash compensation " (p. 79). In Tasmania a fund is provided out of which grants may be made to indigent farmers (p. 83). So also in Western Australia under the Rural Relief Act (p. 94). Indeed throughout Australia the methods of protection have become standardized. Detailed reference is given in the summary of the Queensland legislation (p. 70).

In Papua, rubber growers are assisted by sums granted out of the revenues of the Territory, the amount available for such grants being related to the amount of grants from the Commonwealth in respect of customs duty on imported Papuan rubber (p. 97). Authority for the grant of Agricultural loans for the assistance of growers was given in widely diverse countries, *e.g.*, in Northern Ireland (p. 25), Jamaica and Grenada (p. 170) and in Palestine (p. 177). In Madras also the Loans Act for the relief of indebtedness was extended and an Act passed to check the malpractices of certain moneylenders with a view to the protection of small creditors (p. 134).

A different form of protection in the interest of schools and sporting associations was provided by the so-called " Old School Tie " Act of South Africa. A register of badges is to be kept and registration gives the exclusive right to use the name, uniform or badge in respect of which the certificate of registration is issued (p. 113). Special legislation in Kenya protects Girl Guide and Boy Scout badges, etc. (p. 161).

Labour and Social Legislation.—Of legislation for the betterment of labour conditions there was no lack in the year under review. In the United Kingdom the year was noteworthy for the Unemployment Insurance Act and the Special Areas Act (p. 8) and supplied also a National Health Insurance Act (p. 9). The efforts made by the Canadian Dominion Parliament to implement the Geneva Labour Conventions relating to various aspects of labour conditions were indeed, in the main, brought to naught by the decision of the Judicial Committee (pp. 35–37), but the provinces are not averse to progressive industrial legislation. Thus Alberta made a fresh effort to secure fair wages and hours (pp. 41–2) and has enacted a very general scheme for health insurance (p. 42). In Quebec the provisoins for minimum wages for women are extended (p. 55). In Nova Scotia a Board of Adjustment was given power to determine hours of labour (p. 51). The Dominion Fair Wages and Hours of Labour Act which regulates wages and hours in relation to Dominion Public Works and Contracts (p. 36), is also worth notice.

Several territories besides Canada legislated with a view to the application of the Convention as to Minimum Wages. Such were Fiji, Zanzibar and certain of the West Indies.

Workmen's Compensation was also the subject of legislation in various territories, *e.g.* British Guiana (p. 166), Queensland (p. 69) and Victoria (p. 92) and the new legislation of the last mentioned is of special interest, as also is that of Jersey (p. 18).

The extension to government servants of right of access to Courts of Arbitration for settlement of grievances as to employment, a step taken under an Act of Western Australia (p. 93), may also be noted.

It is surprising to learn that until 1935 it was possible in New Zealand to practise as a solicitor without having any practical experience. Three years' experience in the office of a barrister or solicitor is now required. The " higher " branch of the profession remains, apparently, satisfied that the purely academic lawyer is an adequately qualified professional lawyer (pp. 102–3).

South Africa has attempted to settle by legislation the respective rights of Government and public with respect to the seashore. The Governor-General is to own the seashore, and the sea, and the bed of the sea up to the three-mile limit! Seashore means " foreshore." The " Minister " is given power to grant temporary concessions over the shore ; for more permanent grants a resolution of both Houses is requisite (pp. 112, 113).

A good many people will regret to see that the Government of Southern Rhodesia is to run lotteries—three each year. The proceeds are to be devoted to social welfare and young persons and natives are not to be allowed to receive prizes (p. 131).

In Tanganyika it has been made incumbent upon those directing or assisting in the making of a cinematograph film to obtain Government permission (p. 162), and in Jamaica advertisements and posters of films and cinematograph exhibitions must be approved (p. 170).

Protection of Flora and Fauna.—The desire to preserve wild animals and wild flowers is felt in many quarters. A consolidation and amendment of the Game Laws took place in Transvaal where the possession of hides, meat or horns is now deemed *prima facie* evidence of unlawful hunting (p. 126). Changes in the Uganda law were made to conform with the Convention relating to the preservation of African flora and fauna (p. 163).

New provisions for the protection of native flora were enacted in Western Australia (p. 96). In the United Provinces of India the Government has been authorized to declare sanctuaries for wild life (p. 137).

Road and Rail.—In Northern Ireland the important Road and Railway Transport Act embodies a scheme for the co-ordination of transport. The new authority thereby created, the Northern Ireland Road Transport Board, has as its duty to secure economical and convenient public services. The methods by which this happy consummation is to be achieved are briefly set forth in our summary (pp. 18–21). Victoria has given to the Governor power to make traffic regulations which are to have paramount effect over any other regulations or by-laws; this has led to the promulgation of an elaborate Traffic Code (p. 89). Our Cape correspondent draws attention to an Ordinance which authorizes local authorities to build "grid gates" as part of road construction and explains their construction (p. 122). In the United Kingdom a tardy regard for safety and amenity produced the Restriction of Ribbon Development Act (p. 11).

Manitoba followed the metropolis in seeking to limit the speed of motors in built-up areas, and followed several other jurisdictions in depriving the gratuitous passenger of his right to recover damages for ordinary (not for gross) negligence (p. 50). The old boast that the conception of negligence was a single one in English law was probably never true, for the standard of the prudence of the man on the Clapham bus could not serve all purposes. But at the present day the variety of negligences is becoming more than confusing—dazzling indeed. The existence of too many standards will, it is to be feared, tend to the confusion of all standards. In the matter of motor accidents, Quebec has legislated in a manner to please the Pedestrian Society by authorizing the seizure of the vehicle which did the damage. The recovery by hospitals of their claims against victims of accidents has also been regulated and facilitated (p. 57).

Liquor Trade.—An important measure was enacted in Queensland, one noticeable feature of which is the abolition of the practice of annual renewal. Henceforth the licence is to be a permanent instrument. The number of each of the various forms of licences existing at the passing of the Act is to be deemed to be the greatest number of each of such licences. Provision is made for cancellation with compensation; no further polls under Local Option are to be held (pp. 74–77). South Australia has "liberalized" its present laws restricting the sale of alcoholic liquor. The process described by our correspondent as "liberalization" involves a new definition of the historic *bona fide* traveller, and wider scope for selling liquor for clubs and at social gatherings (p. 80–1). The original Intoxicating Liquor Ordinance in Palestine has now been superseded by fresh legislation as a consequence of an official investigation into the Liquor trade. Somewhat alarmist statements had been made as to the increase in drinking since the commencement of the Mandatory Government and this inquiry was therefore instituted. The Report made by Dr. Harkness, the Deputy Director of Medical Services, did not support the statements, but revealed certain defects in the law which the Ordinance of 1935 is designed to remedy (p. 177). It would be interesting to know why in the New Hebrides the obligation to procure a permit to purchase liquor was suspended for one year (p. 109). Was it an experiment to test the self-control of the inhabitants?

Marriage.—The law of Marriage and Divorce, at all times interesting

the Union legislation will prove effective. Somewhat similar legislation has been enacted in South Australia by an Act which prohibits advertising arrangements under which goods are distributed to the public in exchange for articles such as soap wrappers (p. 82).

Civil Law and Procedure.—Reference has already been made to the Law Reform (Married Women and Tortfeasors) Act of the United Kingdom (pp. 5–6). The principle of the earlier Law Reform Act has been adopted in Fiji (p. 106), Sierra Leone (p. 158) and Manitoba (p. 50). In the latter province the term " child " in the Fatal Accidents Act is henceforth to be interpreted as including an adopted and an illegitimate child (p. 49) and in Sierra Leone also amendments have been made in the Fatal Accidents Act. In that Colony, however, adoption is unknown, so that extension of the Act to adopted children is unnecessary.

In Alberta periods of limitation for various types of action have been set forth anew. The longest period allowed is six years, but some of the periods are much shorter. Libel and slander must be sued upon within two years. The Act deals also with questions of acknowledgment and the like (p. 44). Western Australia has legislated on the same subject, but mainly by way of consolidation of the relevant Imperial Statutes in force in the State (p. 95). Bombay (p. 135), following a precedent in Bengal, has provided for the registration of Moslem Wakfs and also for that of Hindu religious trusts. These enactments are stated to be directed mainly to the exercise of control over the accounts so as to ensure that the income is properly administered.

In the Straits Settlements a modified procedure in bankruptcy has been introduced in cases in which the total debts do not exceed $500 and none of them was contracted in trade or business. " A wage earner's administrative order " may in such cases be made by the Registrar. The debtor is not thereby made a " bankrupt," there is no public examination and the Registrar is vested with extended jurisdiction. The procedure is suggested by the English precedent existing under s. 129 of the Act of 1914, but clearly goes farther. It forms part of a crusade against the activities of moneylenders and is accompanied by further legislation in the form of an amending Moneylenders Ordinance (pp. 146–8).

In several territories, as our Index shows, provision was made for reciprocity in the enforcement of Imperial or foreign judgments and Acts were passed giving effect to various International Conventions. Of these the most important were the Warsaw Convention as to international Carriage by Air and the Conventions as to the importation, manufacture and sale of Dangerous Drugs. Lists of the States so legislating are given under appropriate heads in the Index, to which we must refer the reader.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* CECIL T. CARR, ESQ., LL.D., *Editor of Statutes Revised, Statutory Rules and Orders*, etc.]

THERE were 47 Public General Acts of Parliament in the session 25 & 26 Geo. V, which began on November 20, 1934, and ended on October 25, 1935. They include the enactment of the new Indian Constitution, fresh developments in the provision of social services, important instalments of law reform, and several instances of the post-war preoccupation of Government with the problems of unemployment and the planning of industry.

Improvement of the Statute-Book.—The consolidation of the Unemployment Acts (c. 8) is a model of care and clarity. The draftsman was probably grateful for the skill with which his predecessor had framed the principal Act of 1920 and its complicated and frequent amendments. The main difficulty was the relation of the scheme to Northern Ireland to which the Act for the most part does not apply.

Two other statutes, Housing Acts for England and Scotland, contain schedules of minor amendments " designed to facilitate consolidation by removing inconsistencies of language and repealing obsolete provisions." Honourable mention may also be made of s. 301 of the Government of India Act ; in the midst of its constitution-making, Parliament paused to repeal as obsolete two 18th-century enactments.

In the House of Lords a vigilant critic continued to press for uniformity in the grammatical treatment of nouns of multitude. Another purist [1] protested too late against the infelicitous words " effectuating " and " effectuation " in the Herring Industry Act.[2]

Constitutional.—Few statutory labyrinths are more puzzling than the law of Parliamentary disqualification. The Act of Anne and the later variations on the theme of " office of profit," the Re-election of Ministers Act of 1919, and so on—these make an anfractuous channel dotted by such wreckbuoys as the Preston Act of 1925, the Ponsonby Act of 1929 and the Runciman Act of 1932. Now comes an Eden-Cranborne Act, officially named the House of Commons Disqualification (Declaration of Law) Act (c. 38). The 1919 Act excluded from disqualification any Privy Councillor " appointed to be a Minister of the Crown at a salary without any other office being assigned to him." Mr. Anthony Eden was, after that fashion, a Minister without portfolio ; his appointment, however, was described as that of Minister without Portfolio for League of Nations

[1] Mr. A. P. Herbert, M.P., *Punch*, September 18, 1935, p. 326.

[2] See 25 & 26 Geo. V., c. 9, s. 2 (7) (8) : " effecting," and not " effectuating," occurs in s. 2 (1).

Affairs. Was he protected by the 1919 Act or not? The new Act explains that " a Minister who has not the charge of any public department is not to be treated as having had an office assigned to him by reason that his appointment provides for his performing, or by reason that he performs, particular duties."

The case of Lord Cranborne, now for the second time an involuntary victim of these legal tangles,[1] was different. He had been appointed an additional Under Secretary to the Foreign Office. An Act of 1742 dealt *inter alia* with the admission to the House of Commons of " the Under-Secretary to any of His Majesty's principal Secretaries of State." Would these words cover two Under-Secretaries to a single Secretary of State? There is a limit (based on the Government of India Act, 1858, as amended) to the total number of Under-Secretaries of State who may sit and vote in the House of Commons at one time. The new Act declares " for the avoidance of doubt " that, so long as this limit is not exceeded, the Secretary of State for Foreign Affairs may have two Parliamentary Under-Secretaries of State (why not indeed?) and in that case neither of them is disqualified by his office from election to, or from sitting and voting in, the House of Commons. Foreigners may see here a typical English autoschediasm. Doubt is removed *ad hoc*, for the Foreign Secretary; but why not for all Secretaries of State? Why not—better still—a clear consolidation of the whole law of Parliamentary disqualification?

India.—The 430 pages which contain the 478 sections and 16 schedules of the Government of India Act (c. 42) were destined to be scrapped a few months later when, by an ingenious reprinting arrangement, the Act was severed into separate codes for India and Burma. Its political changes have already been explained in our *Journal* by Professor Berriedale Keith in his periodical Notes on Imperial Constitutional Law.[2] The architects drew their plan with the knowledge that the structure would be erected by instalments—provincial autonomy first and federation some day. The technical lay-out will be admired. There are " chapters " as well as " parts," and the transitional provisions are neatly grouped by themselves. The three legislative fields (Federal, Provincial and Concurrent) are demarcated in the seventh schedule and will doubtless make work for judges. There is a Federal Court with original jurisdiction in disputes between the Federation, any of the Provinces or any of the Federated States, and with appellate jurisdiction in appeals from the High Courts in British India or in Federated States. Appeals may be carried to the Privy Council from judgments of the Federal Court on constitutional issues or by leave in other cases. The Federal Court may be established in advance of Federation. The draftsman, having spelt out his words, is now, on the Squeers principle, to go and see how they work. An important piece of machinery is the delegation of power to make Orders in Council on such matters as the future government of Aden, the constitutions of Sind and Orissa, and certain adjustments between India and Burma. These Orders will be laid in draft before Parliament; no further action is to be taken thereon except on address from both Houses " praying that the Order may be made either in the form of the draft or with such amendments as both Houses of Parliament may have agreed to recommend to His Majesty." Nothing, however, is said of the machinery—

[1] See *Journ. Comp. Leg.*, Third Series, vol. xv, pt. ii, p. 2.

[2] See vol. xvii, pt. i, pp. 109–14, for the Joint Select Committee's Report, and pt. iv, pp. 276–80, for the Act itself.

by joint session or otherwise—for composing a conflict if Lords and Commons pray for different amendments. There is provision for Orders in Council in emergency when Parliament is dissolved, prorogued or adjourned. The Act necessitates some readjustment of the statute-book where India is concerned. The expression " colony " in the Interpretation Act is reworded, and a valuable power is taken for adapting and modifying statutes by Order in Council on the lines of the Orders made under s. 69 of the Government of Ireland Act, 1920. References in any Act to India or any part of it, to countries outside India, to the Dominions or British possessions, to the Secretary of State in Council or to any legislatures, courts or authorities in India or in British India may thus be adapted.[1] The new Act naturally clears the ground in building afresh. Parts of the former Government of India Act, set out in the ninth schedule, are continued in force pending the establishment of Federation.

The prompt transmission to India of this big new Act, heavily amended up to the last moment, was a striking feat of telegraphic promulgation.

Defence of the Realm.—The Defence (Barracks) Act (c. 26) bears witness to the expansion of the Royal Air Force. It removes a restriction on the taking of land under the otherwise convenient Defence Act of 1842. The 1842 Act (applied to the needs of the Navy and the Air Force as well as of the Army and offering a quicker method of acquisition than the Military Lands Act, 1892) had a proviso that the acquired land should not be used for barracks; under an Act of 1859 the proviso is excluded where the land is in a fortress or garrison town. Sites for the new aerodromes, to which airmen's barracks must be adjacent, will hardly be found within fortresses or garrison towns. The new Act cancels the awkward proviso.

The usual opportunity for minor changes occurs in the Army and Air Force (Annual) Act (c. 17). There is fresh provision for the imprisonment and detention of men sentenced in a Dominion or colony or in India. The matters which can be proved by documentary evidence in proceedings under the Army Act or Air Force Act are extended to cover the fact that a person has or has not served in, or been discharged from, a force; has or has not held a particular rank or appointment or served in a particular country or place; and is or is not entitled to use or wear a military decoration, medal, ribbon or badge. Another new clause puts under military or air-force discipline officers employed outside the United Kingdom " either on military service with an armed force or in any other military capacity." This would apparently cover an officer acting as A.D.C. to a Governor or as member of a military mission abroad.

The Regimental Charitable Funds Act (c. 11) removes a minor anomaly. An Act of 1849, reproduced on consolidation in 1859, transferred the existing charitable funds of 35 units into military savings banks, making the War Office responsible for the capital and enabling the rate of interest to be fixed officially within a maximum figure. Subsequent funds of the same nature escaped this rigid treatment; they are mostly held and invested by the United Services Trustee (incorporated in 1918) without any charge, without restriction of the rate of interest, and without the need of varying the names of the trustees from time to time.

[1] See the Government of India (Adaptation of Acts of Parliament) Order, 1937 (S.R. & O. 1937, No. 230). Burma, being now severed from India, must be written into the Army and Air Force Acts and such other statutes as the Colonial Prisoners Removal Act, 1884.

The new Act enables the War Office to transfer the funds governed by the old law to a holding trustee. The old charitable purposes will still be served; if for any reason—*e.g.* the disappearance of a military unit on amalgamation—it becomes impracticable to carry out a trust, the Charity Commissioners or the courts can make a scheme to meet the situation.

Administration of Justice.—To cope with arrears in the King's Bench, s. 1 of the Supreme Court of Judicature (Amendment) Act (c. 2) increases to nineteen the number of puisne judges in that division of the High Court. If the number of such judges were fifteen or upwards, a vacancy occurring among them could formerly not be filled except after presentation to His Majesty of an address from both Houses of Parliament. For the future the figure seventeen is substituted for fifteen. S. 2 creates the new appointment of Vice-President of the Court of Appeal. This Court usually sits in two, possibly in three, divisions. In the absence of the Lord Chancellor and Lord Chief Justice, who seldom sit there, the Master of the Rolls usually presides over one division, the senior Lord Justice of Appeal over the other. To save the precedence of existing judges subs. (3) was inserted on the suggestion of Lord Reading after a frank debate. Another provision of the Act advances the stage at which the Divorce Court can deal with marriage settlements or permanent allowances to spouses; steps can now be taken on the decree *nisi* instead of waiting for the decree absolute. Another insists that, in proceedings for nullity or marriage, evidence of sexual capacity must be heard *in camera* unless the judge be satisfied that the evidence ought to be heard in open court in the interests of justice.

A Departmental Committee reported in 1934 (Cmd. 4649) its proposals for reducing the number of people (about 20,000 yearly) who are sent to prison for failure to pay fines, rates and other sums. The Money Payments (Justices' Procedure) Act (c. 46) is based on the report. Where a court of summary jurisdiction fines a man on conviction and allows him time to pay, it is not in future to impose a period of imprisonment in default except for special reasons (to be noted in the court register) such as the gravity of the offence or the character of the defendant. A warrant committing a man to prison for non-payment of a fine is not to be issued, where time has been allowed, unless on some occasion subsequent to the conviction the court makes inquiry as to his means in his presence. Sometimes defendants—especially, for instance, nowadays the peccant motorist—may be living at a distance from the court which convicts them. In such cases a "transfer-of-fine order" can remit the jurisdiction over the potential defaulter to the bench of the district where he lives. Another reform is that the clerk of the court is to send to defendants, if they are allowed time for payment or if they were absent when fined, a note of the amount of the fine with information of the time and place of payment and the prescribed instalments, if any. Some clerks made a practice of giving this information to absentees, others did not or did so only if the defendant had sent a stamped addressed envelope; the practice is now standardized on the highest level of courtesy. Under the previous law imprisonment for non-payment of fines meant five days at least. Courts were authorized to commit to certified police cells for detention not exceeding four days; but few police stations were certified for this purpose, and a defendant might have to be haled 50 or 60 miles away in order to enforce the law. The new Act authorizes, in lieu of imprisonment, detention for a period not exceeding one night in a police

cell—a mild method of reminding a defaulter that the law is not to be flouted with absolute impunity. Another new provision is the power, exercisable either on the occasion of the conviction or subsequently, to place defendants under supervision of an appointed officer; the ultimate step of committing them to prison in default of payment of the fine will not be taken without obtaining this officer's written report on their conduct and means. Supervision of this kind was already possible for young defaulters; it now becomes obligatory for all defendants under 21. Many defendants go to prison for default in payment of affiliation or bastardy orders, sometimes doing so to assert their disagreement with the court's decision. In future the court is to inquire, in the man's presence, whether his non-payment is due to wilful refusal or culpable neglect; if they find it due to neither, the magistrates are not to commit him to prison. Thus it will not be for the woman to prove the culpability. Lastly the new Act deals with those defaulters, about 3,000 per annum, who are sent to prison for non-payment of rates. Usually they omit to appear on the summons; a distress warrant is then issued which may have the desired effect. If the warrant is returned marked "no effects," a commitment warrant is issued: at this stage some pay up, others go to prison. Here again the Act directs the justices, on an application for a commitment warrant, to inquire in the defendant's presence whether non-payment is due to wilful refusal or culpable neglect. If it is not so due, they are not to commit him to prison. Thus at many points the justices are reminded that imprisonment is not an automatic sequel to an unpaid fine. There are general provisions in the Act for summoning defaulters to court for inquiry as to their means and for treating as *prima facie* evidence an employer's signed statement of the amount of wages paid during any period.

Law Reform.—The Lord Chancellor's Law Revision Committee, whereon the Bench, the bar, the solicitors and the teachers of law are well represented, recommended other reforms which are embodied in the Law Reform (Married Women and Tortfeasors) Act (c. 30), originally less descriptively christened, like an earlier instalment in 1934, the Law Reform (Miscellaneous Provisions) Bill. Part I gives effect to the committee's Fourth Interim Report (Cmd. 4770), which deserves study. If the Married Women's Property Act of 1882 had really been meant to make a married woman answer alone for her own liabilities as though she were not married,[1] the law courts had, not for the first time, thwarted the intention of Parliament. By the new Act a married woman is henceforth placed in the same position as a *feme-sole* for the purpose of (*a*) capacity to acquire and dispose of property, (*b*) capacity to render herself or be rendered liable for tort or contract, (*c*) capacity to sue and be sued in tort, contract or otherwise, and (*d*) subjection to the law of bankruptcy and to the enforcement of judgments and orders. Her liabilities are to be personal like those of a man or an unmarried woman, and not proprietary in the sense of being limited to her separate property. The old fetter of "restraint upon anticipation" is broken as regards all future deeds or wills. A husband is no longer to be liable, "by reason only of his being her husband," for his wife's torts or for her ante-nuptial debts and obligations.

Part II, reflecting the Committee's Third Interim Report (Cmd. 4637),

[1] See Moulton L.J., in *Cuenod* v. *Leslie*, [1909] 1 K.B. at p. 886, and Birkenhead L.C., in *Edwards* v. *Porter*, [1925] A.C. at p. 6.

deals with the joint tortfeasors, this last word being hyphenated throughout Part II but not in the short title. *Merryweather* v. *Nixan* had long ago crystallized the artificial doctrine that, where two or more persons committed a wrongful act, an injured person could recover the full amount of the damage from any one of them ; if so, the fellow-wrongdoer was under no obligation to contribute. This unjust rule is now abolished, s. 37 (3) of the Companies Act offering a sort of precedent. There can be contribution whether the wrongdoing is joint or several, *e.g.* where a plaintiff suffers a single damage from the combined negligence of two different motorists.

From these highly technical reforms, best studied in the Committee's admirable reports, we turn next to a slight mitigation of the old harsh laws against vagrancy. S. 4 of the Vagrancy Act of 1824 makes a " rogue and vagabond " of anyone who wanders abroad and lodges in a barn or outhouse or in a deserted or unoccupied building or in a cart or wagon, not having any visible means of subsistence. There might thus seem to be one law for the rich and another for the poor. In 1933 Thomas Parker, an ex-service man in search of work, went to sleep under a hedge. He was arrested under s. 4 and sentenced to 14 days' imprisonment. He died in prison from injuries ascribed to the fact that he suffered from claustrophobia. It was one of the incidents which compel a change of law. A new Vagrancy Act (c. 20) repeals the old words " not having any visible means of subsistence " and declares that no offence will in future be committed by wandering abroad and lodging as aforesaid unless it be proved that the accused either (*a*) had been directed to a reasonably accessible place of shelter and had failed to apply for, or had refused, accommodation there ; or (*b*) is a person who persistently wanders abroad and, notwithstanding that a place of shelter is reasonably accessible, lodges or attempts to lodge as aforesaid : or (*c*) by lodging as aforesaid causes damage to property, infection with vermin or other offensive consequence.

Agriculture.—Though veterinary science moves forward, the Diseases of Animals Acts are still based on a statute of 1894. This group of Acts is now applied by a new Diseases of Animals Act (c. 31) to poultry, defined as domestic fowls, turkeys, geese, ducks, guinea fowls and pigeons. There will thus be departmental power to make orders prescribing and regulating the separation of diseased and healthy poultry, the notification of diseases of poultry, the slaughter (with compensation) of " diseased or suspected poultry," and the cleansing and disinfection of receptacles or vehicles. Orders may be made also for prohibiting or regulating the import of poultry or eggs into Great Britain to prevent the introduction or spread of disease. Other orders may protect poultry from unnecessary suffering during exposure for sale or afterwards. Export quarantine stations may be provided or approved for examination of either animals or poultry intended for export. The Minister may cause any animal or bird which has been exposed to infection to be treated with serum or vaccine. Part II of the Act regulates the manufacture of veterinary therapeutic substances, much as other therapeutic substances were standardized and controlled by legislation in 1925 (15 & 16 Geo. V., c. 60).

In Part III there is an unobtrusive correction of an only recently revealed error. The Diseases of Animals Acts have always been worked by a single central authority for England and Scotland, though for other purposes Scottish agriculture is separately administered. In 1919 an Act exalted this central authority, the " Board " of Agriculture and

Fisheries, to the dignity of a "Ministry." The Ministry thereafter continued to administer the Acts, as the Board had done before, for the whole of Great Britain. But the 1919 Act had been expressly stated not to extend to Scotland. Thus *per incuriam* the Ministry had been exercising authority north of the Tweed under a false name. The 1935 Act puts things right retrospectively.

The period of the cattle subsidy, established temporarily in 1934, is twice prolonged (cc. 12 and 39). The 1925 subsidy on home-grown sugar is also carried on for another year (c. 37).

Fisheries.—The herring industry, depressed by loss of export markets and by diminished consumption at home, submits to be reorganized in accordance with recommendations made by the Sea Fish Commission. The Herring Industry Act (c. 9) incorporates a Herring Industry Board consisting of a chairman and two members unconnected with the industry and five others with special knowledge of it. After two years the Board may put up proposals for letting the fishermen elect specialist members; if so, the proposals may receive effect by an order approved by resolution of both Houses of Parliament. The Board is to make a scheme for the reorganization, development and regulation of the industry. Under the scheme the Board can obtain wide powers. It may promote sales and marketing, research and experiment; it may lend money for constructing and reconditioning boats and encouraging exports. It may purchase and dispose of redundant boats, assist the revival of winter fisheries and limit the number of boats, fish curers, salesmen and exporters by a licensing system with compensation and arbitration. It may regulate sales, fishing and curing and may even fix prices to meet "temporary or seasonal conditions detrimental to the industry." It may buy and sell herring as agents or, in special cases, as principals. It may dispose of surplus herring by conversion into oil and other products. It may levy contributions on persons engaged in the industry or wholesale purchasers. It may enter boats and premises and oblige all concerned to keep records and accounts and to furnish information. These provisions furnish a good precedent for the regimentation of a trade. If a scheme takes effect, the departments concerned are to appoint a Consumers' Committee and a Committee of Investigation. After 18 months a scheme can be revoked and the Board wound up. Government dictatorship, it will be seen, is avoided. The industry is left free to work out, through the Board, its own salvation; but there is Treasury control over the Board's borrowing and over the issue of money from the Herring Fund Advances Account for loans for boats and nets, for buying up redundant boats and so on. *Prima facie* the Act does not apply to Northern Ireland in so far as it touches matters within the powers of the Belfast Parliament. But it can be applied by Order in Council upon a resolution passed by both Houses of that Parliament: if so applied, that Parliament can repeal or amend its terms. A Salmon and Freshwater Fisheries Act (c. 43) applies the c onsolidating Act of 1923 to eel and elver fisheries so that a close time may be prescribed.

Shipping.—The shipping industry, suffering from the conjunction of unprofitable freights and superabundant ships, is comforted by the British Shipping (Assistance) Act (c. 7). Foreign countries have subsidized their own vessels; Britain moves in the same direction. An advisory body, the Tramp Shipping Subsidy Committee, is established and the sum of two millions is earmarked for payment to owners of

ships for " tramp voyages " (defined in s. 6) outside the home seas in 1935. Part II of the Act contains a " scrap-and-build " scheme. Another advisory body, the Ships Replacement Committee, can recommend to the Board of Trade its proposals for the building or modernization of vessels. With the approval of the Board and the consent of the Treasury, advances up to two millions can be made for a period of two years. The demolition proposals must scrap two gross tons for every gross ton of new building or ton for ton of vessels modernized. Scrapping and building must substantially be done in the United Kingdom ; the scrapped ships must not be used for fresh tradings and the newly-built or modernized ships must not be sold without the Board's consent. Advances must be secured by mortgage, with interest not exceeding 3 per cent., and must be repayable within twelve years.

Unemployment.—Apart from these efforts to revive particular industries, attention is given to certain " depressed areas," as Parliament at first called them, or " special areas " as they were finally called. The Special Areas (Development and Improvement) Act (c. 1) makes no government department exclusively responsible but creates two Commissioners " whose functions shall be the initiation, organization, prosecution and assistance of measures designed to facilitate the economic development and social improvement " of certain scheduled areas, " being areas which have been specially affected by industrial depression." To preserve constitutional propriety the Commissioners are to act under the " general control " of the " appropriate Minister," who in England (and Wales) is the Minister of Labour and in Scotland is the Secretary of State. The English Commissioner's areas include districts in Durham, Northumberland, Cumberland and South Wales ; the Scottish Commissioner's areas include the counties of Dumbarton, Lanark (except Glasgow) and Renfrew with parts of Ayr, Stirling, West Lothian and Midlothian. A Special Areas Fund (two million pounds for the financial year) is placed at the disposal of the Commissioners, subject to Treasury control ; the accounts have to be examined by the Comptroller and Auditor-General, who will report to Parliament thereon. One must not expect to find in the formal phrases of the statute any clear indication of the Commissioners' prospective activities. Their function is to make suggestions to, and collaborate with, government departments, local authorities, voluntary organizations and other bodies. They must not carry on any undertaking for gain or provide financial assistance to a local authority ; but they may finance undertakings " carried on with the primary object of providing means of livelihood " for the persons concerned therein with a view to making them wholly or partly independent of public assistance either under the Unemployment Assistance Act or by way of poor relief. The Commissioners may appoint Deputy Commissioners, and there is special machinery for expediting the compulsory acquisition of land. The Act is to continue till March 1, 1937, and no longer unless Parliament otherwise determines. On its expiration, the powers and property of the Commissioners can be transferred by Order in Council to the Unemployment Assistance Board and other departments.

The long Unemployment Insurance Act, already mentioned, makes no new law. S. 75 of this re-written code arranges for crediting contributions to persons who, after attaining the age when the period of compulsory instruction ends, continue to receive whole-time education.

In 1934 the age of entry into insurance was lowered as from a date in September instead of from the date in July when the school year ends. A brief Act (c. 33) arranges for crediting contributions in the case of young persons who might otherwise have suffered from this discrepancy in dates.

Two Unemployment Assistance (Temporary Provisions) Acts (cc. 6 and 22) deal with the postponement of the "second appointed day" under the Act of 1934. Before 1935 unemployed persons who had exhausted their rights to unemployment insurance benefit were provided for by a system of transitional payments, based on a determination of their need, made by local "public assistance" authorities. After January 7, 1935, they were to be transferred to the care of the Unemployment Assistance Board and their needs were to be determined by regulations made by the Board and approved by Parliament. Draft regulations were produced at the end of 1934 but were withdrawn on adverse criticism. The Government then made interim arrangements pending further investigation. Persons aggrieved were put back where they would have been under the transitional payments system. The postponement of the "second appointed day" meant that no new classes could be transferred. This affected the local authorities' finances; borrowing to meet excess expenditure is permitted.

Health Insurance, etc.—The first purpose of the National Health Insurance and Contributory Pensions Act (c. 44) is financial. The Government Actuary's report in 1931 had shown weaknesses in the scheme of State insurance due to the number of unemployed persons who were earning no money with which to pay their contributions. The Act reviews the situation and replaces certain emergency provisions. It preserves the existing law which gives full pension and insurance rights for 21 months to persons whose contributions have failed. After that period, if they get work again, they go back of course into the scheme with full rights. If not, where they have been continuously insured for at least ten years, they remain insured for an "extended insurance period" of a year, subject to proof that they have been either incapable of work through disease or disablement or unable to obtain work, and will continue to be insured for further extensions subject to like proof; but they lose cash benefits connected with sickness and disablement. There are fresh provisions as to proof of disease or disablement, inmates of institutions, officers of the reserve forces and arrears of contributions. A person is not to be deemed an insured person if employed in a business of which, within two years of the date when the employment began, he was owner or part owner, where he is employed by a relative or by a family company. The Contributory Pensions Act is amended as to children under full-time instruction, as to reciprocal arrangements with His Majesty's Dominions outside Great Britain and in other respects. There is a formidable group of additional amendments (described as minor and consequential) in the second schedule.

Housing.—Having dealt with slum clearance by the Act of 1930, Parliament now attacks the evils of overcrowding. The new Housing Act (c. 40) directs the local authorities in England and Wales to inspect their districts and to make reports and proposals for abatement of overcrowding. When is a dwelling-house to be deemed overcrowded? The answer (in s. 2) is twofold: (*a*) when any two persons, being 10 years old or more and of opposite sexes and not living together as husband

and wife, must sleep in the same room; or (*b*) when there is any excess over the "permitted number of persons," defined by formulæ in the first schedule to the Act according to the number and floor area of the rooms in the house. In reckoning the number no account is taken of a child less than 1 year old; a child between 1 and 10 years old counts as half a unit. A member of the occupier's family, sleeping temporarily in the house and not living there, does not make the occupier guilty if there is otherwise no overcrowding. There is a concession for sitting tenants. No penalties will be imposed for houses overcrowded on the "appointed day" when the new law comes into force, or for houses which become overcrowded because children in the family grow up, unless there is a failure to take advantage of an offer of "suitable alternative accommodation."

The occupier or the landlord is guilty of an offence if he causes or permits overcrowding. He can be fined £5, with a further £2 per day for a continuing offence. The landlord is deemed to cause or permit overcrowding if (*a*) after notice in writing, he "fails to take such steps as it is reasonably open to him to take for securing the abatement of the overcrowding, including if necessary legal proceedings for possession of the house," or if (*b*) on a future letting he has reasonable cause to believe that it will become illegally overcrowded or fails to make inquiry of the proposed occupier as to the number, age and sex of persons who would be allowed to sleep in the house. The landlord has the duty of informing the local authority if he or his agent knew that a house is overcrowded. The Minister is allowed to make orders increasing the "permitted number" temporarily to meet special conditions in areas where houses consist of few rooms or of exceptional floor area. A local authority may by licence authorize the temporary use of a house by persons in excess of the permitted number in "exceptional circumstances"—*e.g.*, presumably, the seasonal influx into seaside lodgings in August. Rent-books must contain a prescribed summary of the new law and a statement of the number permitted for the house.

If the overcrowding is to be abated, the excess of numbers must be accommodated somewhere else. S. 13 requires urban authorities to make a re-development plan for any area which contains fifty or more working-class houses where there is overcrowding and congestion and where "the industrial and social conditions of the district" are such that the area should be substantially used for working-class housing. To provide fresh accommodation, public money may be contributed for erecting flats on sites of high value and also for housing members of the agricultural population. In a group of provisions for unifying the conditions affecting local authorities' houses there is a direction to the authorities to "secure that in the selection of their tenants a reasonable preference is given to persons who are occupying insanitary or overcrowded houses, have large families or are living under unsatisfactory housing conditions."

There are a few concessions for which a landlord will be grateful. If a building is declared unfit for human habitation, he is to be told the reasons for the decision. Where compulsory purchase is in prospect, and a building "notwithstanding its sanitary defects" has been "well maintained," he is to have payment for it. Not to prolong the summary of this long and complex Act, it may be added finally that a Central Housing Advisory Committee is at last set up, and that local authorities

may submit schemes, for approval by the Minister, for establishing incorporated Housing Management Commissions for taking over the functions of controlling, repairing and maintaining working-class houses and other buildings and land in the locality.

A similar Act is passed for Scotland (c. 41). Both statutes contain groups of consequential and drafting amendments and, as already stated, amendments to assist future consolidation.

Use of the Highway.—Houses in the wrong place may menace the safety and amenities of the highway. The Restriction of Ribbon Development Act (c. 47) seeks to prevent indiscriminate building on the frontages of the new main roads on which so much public money has been spent, the destruction of the landscape and the growth of infinitely produced parallel lines of streets across the countryside, with a population strung out for mile after mile and unable to organize itself in the traditional groupings apt for local self-government. The Act enables the various highway authorities, with the approval of the Minister of Transport, to adopt for any highway one of a number of scheduled standard widths representing the future widths of the road between fences. Within this width the authorities can prohibit buildings. The maximum standard edge-to-edge width is 160 feet, the minimum is 60. Where such restrictions are in force, the highway authority may fence off the roads to prevent access except at permitted points. The highway authorities are to consult other authorities which are interested to preserve the amenities and proper development of the locality under the Town and Country Planning Act. Applicants for the highway authority's consent to the erection or re-erection of buildings in the restricted zone may, if aggrieved by the decision, appeal to the Minister of Transport. An alternative suggestion in debate on the Bill, that appeal should be to the justices or to quarter sessions instead of to a departmental tribunal, was rightly negatived; the policy and operation of the Act would have suffered if the various magisterial jurisdictions along a trunk road set up different standards for different lengths of it. The Act makes further general extension of local authorities' powers to provide parking places for vehicles: buildings may be erected and maintained in this connexion, the parking places may be placed underground, and cloakrooms and other conveniences added. Where plans for erecting new buildings must be submitted, the local authority can require, as a condition of its approval of the plans, the provision of adequate means of entrance and egress, accommodation for loading and unloading vehicles, picking up and setting down passengers or fuelling vehicles, in order to limit the interference with traffic on adjacent roads.

Education.—The University of Durham Act (c. 29) follows the plan of similar legislation for Durham itself in 1908, for Oxford and Cambridge in 1923 and for London in 1926. It creates commissioners who are to make statutes for the university. These are to be in general accordance with the recommendations of a recent Royal Commission presided over by Lord Moyne (Cmd. 4815). In particular the statutes may dissolve the College of Medicine and the Armstrong College at Newcastle-upon-Tyne and constitute a single corporation in their place. The too loosely knit association of these Newcastle bodies with the Durham division of the university was thought to have fostered internal dissension and weakness of control. The new statutes require approval by His Majesty in Council and can override anything in any previous Act of Parliament or charter.

The cut in teachers' salaries in England and Scotland, under the National Economy (Education) Order of 1931, was likely to prejudice their pensions, which are based on average salary computed over the final five years of service. The Teachers (Superannuation) Act (c. 35) ensures that the annual superannuation allowance shall in no case be less than 98 per cent. of what would have been received if there had been no cut.

Civil Servants' Superannuation.—The Superannuation Act (c. 23) is in part concerned with like relief against the consequences of cuts in civil servants' salaries. More permanent provisions embody suggestions made by a recent Royal Commission on the Civil Service (Cmd. 3909). Women civil servants get the benefit of ss. 1 and 2 of the Act of 1909, which deal with superannuation allowances and with gratuities to the legal representatives of a civil servant on his or her death. In future a civil servant, retiring in good health, may surrender part (up to one-third) of his or her pension in return for a pension for the wife or husband or dependants. Where a civil servant has gone from unestablished to established service, half the unestablished service may be reckoned for pension. The amount of pension is (since the 1909 Act) calculated by allowing one-eightieth of the final salary for each year of established service. The new Act takes for this purpose the average annual amount of the salary and endowments during the final three years of service. The lump-sum gratuity on retirement will be three-eightieths (instead of one-thirtieth) multiplied by the number of completed years. The retiring age for members of the China Consular Service is reduced from 60 to 55. Civil servants who transfer to "approved employment" outside the civil service are made more sure of their superannuation rights. There is new provision for the rights of persons transferred from the civil service to local government service or *vice versa*. More generous compensation is to be given in cases of death or injury. A "civil service bonus," graded on the cost of living, was allowed from 1920 to 1934: this fluctuating element now disappears, allowances being adjusted at a consolidated cost-of-living figure of 55 per cent.

Taxation and Finance.—The Chancellor of the Exchequer's Budget, taking legislative shape in the Finance Act (c. 24), restores other cuts imposed in 1931. The income-tax allowances and reliefs are improved. The entertainment tax is removed for the cheaper seats. Educational cinematograph films from foreign countries are exempted from customs duty. A new clause for the valuation of goods for the purpose of any enactment charging customs duty by reference to value enables several overlapping clauses to the like effect to be repealed, though the repeal might have been extended to s. 2 of 22 & 23 Geo. V., c. 30, which is also superseded. A sum is appropriated from the Road Fund and used for general revenue. There is an increased tax on heavy oils so that the Diesel engine will cost more to run. No express provision is made for the sinking fund. Some new clauses dealing with Local Loans prepare the way for a possible future conversion.

Little need be said of the usual Isle of Man (Customs) Act (c. 34), Appropriation Act (c. 28) and Consolidated Fund Acts (cc. 4 and 10).

The Metropolitan Police (Borrowing Powers) Act (c. 16) allows money to be raised for better quarters for the London policeman, better police stations, better accommodation at headquarters in Scotland Yard and new establishments for police training.

Under the London Passenger Transport (Agreement) Act (c. 27) the Treasury can guarantee securities issued, up to a total of 40 million pounds, in connexion with an agreement by certain " Transport Undertakers " to construct fresh works and improve and electrify existing lines. The Transport Undertakers are the London Passenger Transport Board and two main railway lines. They can borrow from a company to be formed by the Treasury for the purpose.

The financial position of British insurance companies is as solid as legislation and departmental supervision can make it. The Assurance Companies (Winding Up)Act, 1933, enabled the Board of Trade to inspect accounts and apply for winding-up orders where there was reasonable ground for believing an insurance company to be insolvent. Compulsory insurance against third-party risks in road traffic accidents would otherwise have been an illusory safeguard. Under the 1933 Act, however, the Board of Trade was put into a dilemma. It could not say there was reasonable ground to suspect insolvency until it produced *prima facie* evidence; it could not inspect accounts till it produced evidence which was not available without inspection. An amending Act (c. 45) enables the Board to demand from companies any such explanations, information, accounts, balance sheets, abstracts or statements as it considers necessary for determining the question of solvency. The Board may require these statements to be certified as correct by an approved auditor or actuary. On the company's default, or if further information seems necessary, the Board may appoint inspectors to investigate. If the company objects to this, it has a right of recourse to the courts. The courts will grant leave to appoint unless satisfied by the company that such an appointment cannot reasonably be required for the purpose of deciding whether the company is solvent. The Act applies only to insurance companies, not to syndicates of private underwriters.

The Post Office.—The Post Office and Telegraph (Money) Act (c. 14) allows money to be raised, up to 34 millions, for developing the postal, telegraphic and telephonic systems. There is also a Post Office (Amendment) Act (c. 15), which fills a gap in the law by penalizing (*a*) the sending of any message by telephone which is grossly offensive, indecent, obscene or menacing, (*b*) the sending of a message by telephone or a telegram which the sender knows to be false " for the purpose of causing annoyance, inconvenience or needless anxiety to any other person," and (*c*) the persistent making of telephone calls without reasonable cause and for any such purpose as aforesaid. Post Office regulations may in future provide for the disposal of postal packets when the addressee is dead, and may prescribe the amount and character of written matter permissible on the covers of such packets. Other amendments enlarge the Postmaster-General's powers of issuing postal orders; the limit of 21*s.* is removed and the three months' period of duration is extended. A new concession allows special postal rates for paper intended for use by the blind and any articles specially adapted for such use—*e.g.* gramophone records. Previous provisions for carrying mail by water are applied to carriage by air. Unauthorized use of the words " Royal Mail " or " Royal Air Mail," or any words, letters or marks which might reasonably be expected to confuse the public, is prohibited. On the other hand the illegality of " fictitious stamps " is mitigated in the interest of innocent reproductions. In legal proceedings there is to be easier proof of various

matters such as the fact that a packet has been refused or rejected or is unclaimed or that the addressee is dead or cannot be found.

Currency and Coinage.—The Counterfeit Currency (Convention) Act (c. 25) gives effect to the Convention signed at Geneva in 1929 by strengthening our existing law to comply with the agreed standards. The maximum penalties in the United Kingdom for offences in respect of His Majesty's currency were more severe than those for like offences in respect of foreign currency. The new Act levels up the punishment for the latter. There were already adequate powers for seizing forged bank notes and the apparatus used in forging them. In future the court can order delivery to the Secretary of State so that they can be handed over on request to the State or bank concerned. Coinage offences were already extraditable; attempts to commit those offences were not. The new Act brings the attempt as well as the substantive offence within the Extradition Act.

Miscellaneous.—The National Gallery (Overseas Loans) Act (c. 18) explains itself by its title. The Trustees and Director are given a discretion to lend the Gallery's pictures, if painted by British artists, either for public exhibition outside the United Kingdom or for display in the official house of a British ambassador in a foreign country. The loans will be subject to conditions imposed for securing safe custody and due return. Where pictures have been given or bequeathed to the Gallery, the Act does not apply until 15 years after the gift or bequest, unless the donor or his personal representatives consent to the loan. If the gift or bequest was accompanied by conditions inconsistent with the loan of the picture, the Act will not apply except where the gift or bequest was before 1900 and where similar consent is given.

The Rent and Mortgage Interest (Restrictions) Acts embody war-time limitations on the right of landlords to recover possession of their property. The Acts, as now continued, apply only to certain classes of houses let at cheap rents. They contained an unexpected anomaly. If the tenant made a will before he died, his widow lost the right to remain on as tenant, whereas, if he died intestate, she could not be dislodged. An amending Act (c. 13) protects the widow in either event.

In 1926 an Electricity (Supply) Act laid the foundations of the grid system. It was afterwards found that non-selected stations could usefully be allowed to come into that system by mutual arrangement where their service would help for peak-load or stand-by purposes. A new Act (c. 3) gives effect to this situation, provided that the Electricity Commissioners are satisfied that the result will not be a financial loss to the Central Electricity Board and that authorized undertakers will not be prejudiced. The Board is allowed in future to supply at special rates and on non-tariff conditions authorized undertakers who are furnishing electricity to big industrial concerns whose needs are exceptional. The Central Electricity Board is also allowed (as recommended by Lord Weir's Committee) to supply electricity to railway companies at agreed prices and on agreed terms, subject to a safeguard against financial loss to the Board. The object is to let the railways proceed with main-line electrification without the awkwardness of negotiating agreements with a number of separate undertakers all along the line. But the Board must not supply a railway with energy for haulage or traction within the area of supply of any authorized undertakers owning a selected station without the owners' consent, such consent not to be

unreasonably withheld; and the railway must not, without the owners' consent, use the supply within such an area otherwise than for purposes of its railway undertaking. These and other complicated provisions in the Act must have been troublesome to draft.

Scotland.—Provisions equivalent to those of the Housing Act for England (already summarized above) are made for Scotland by a separate Housing (Scotland) Act (c. 40). There was, for once, no cause of complaint that an Act framed solely to suit English conditions was inadequately adjusted to Scotland by adding an Application Clause wherein "burgh" was substituted for "borough," "sheriff court" for "county court," and so on.

The Land Drainage (Scotland) Act (c. 19) continues for two more years the period for preparing and settling schemes under an Act of 1930. Schemes had been promoted for the rivers Annan and Nith; the economic crisis had retarded operations and the Scottish Commissioner for the Special Areas was now asking for further schemes (for the Kelvin and the Clyde) to promote employment by useful public works.

In 1928 Parliament set up a temporary Commission to reorganize and review educational endowments in Scotland. The Commission's work being not yet completed and its methods not having escaped criticism, a new Act (c. 5) extends its life to the end of 1936 with some alteration of its powers. Under the 1928 Act the Commission formed schemes which did not operate until approved by the Scottish Education Department and confirmed by an Order in Council. Critics complained that the wishes of pious and benevolent testators were not respected, that the Department had not enough power to disapprove or to amend an unacceptable proposal, and that the Commission did not do enough for competitive bursaries. To meet these criticisms it is now provided that the Commissioners (whose duty it was, under the 1928 provisions, to have special regard to the spirit of the intention of the founder) shall prefix to their draft schemes a memorandum showing (i) the reasons why they think reorganization of the endowment is necessary, (ii) any substantial alteration of the purposes of the endowments, and (iii) the reasons for any such alteration. The Scottish Education Department obtains a definite authority to disapprove or amend a scheme. The Commissioners are to bear in mind the need of continuing from endowments the provision of competitive bursaries at universities and similar institutions. Finally they are not to interfere with any educational endowment which is less than twenty years old unless it be one for which a draft scheme has already been published.

A brief Public Health (Water and Sewerage) (Scotland) Act (c. 36) enlarges borrowing facilities. A Criminal Lunatics (Scotland) Act (c. 32) authorizes the detention of inmates in a new asylum to be built near Carstairs in Lanarkshire instead of in the antiquated and unsuitable quarters hitherto available in part of the prison at Perth. Statutory references to the Perth prison in this connexion will apply to the new asylum. The Secretary of State may make rules for its management. It will be visited and inspected by the Advisory Committee set up by the new Act and by the sheriff of the district.

Northern Ireland.—The last chapter is reached in the history of the transfer of agricultural land in Ireland from landlord to tenant. It was mainly a voluntary process till the Act of 1925 made the transfer automatic, the land being passed from the owner to the Land Purchase

Commission and re-vested in the tenants. Now comes the Northern Ireland Land Purchase (Winding Up) Act (c. 21). Subject to conditions specified in the first schedule, it neatly puts an end to various activities of the Commission—no more advances for land purchase, no more redeeming of rents, no more land purchase and no more improvement of land and holdings. Save as provided in a second schedule, land purchase ceases to be a "reserved matter" within the meaning of the Government of Ireland Act, 1920; in other words the Northern Ireland Government is now free to inaugurate any new scheme of this kind. Without any repeal of the former land purchase enactments, there is a general re-shuffle of surviving functions: some go to the Chancery Judge of the High Court in Northern Ireland, others to the Ministry of Finance in Northern Ireland, and a residue of administrative powers goes to the Treasury in London. There are arrangements for transfer of officers, for the future custody of records, and for transitional finance. It is impossible to foresee every contingency in so intricate a legislative development. Section 12 therefore provides machinery for making Orders in Council to modify and adapt "the Acts relating to land purchase" (this collective term was preferred to "the Land Purchase Acts") as may appear necessary and proper in consequence of the change effected by the new statute. This is a mild form of the Henry the Eighth clause.

Local and Private Acts.—There are 125 Local Acts of the session; there is no Private Act. The Local Acts include one for preserving St. Paul's Cathedral in London, another for enabling the Governors of St. Bartholomew's Hospital to make charges for the accommodation and treatment of certain patients, and another for validating marriages solemnized in churches not licensed for the purpose. Many Acts are concerned with facilities for gas, electricity and water supply, piers and harbours, docks, canals and navigation facilities, tramway, omnibus and other transport services. Some local authorities make interesting experiments in public health and municipal government. Thus the London County Council (General Powers) Act enables the Council to operate a central purchasing scheme, buying and storing goods and materials in agreement with other local bodies. The county of Surrey obtains better control of advertisements to protect the amenities of rural scenery; it may also by regulation declare that land acquired for preservation of rural amenities shall be inalienable and shall be kept in the state in which it is at a specified date. In another county a water company is enabled to prohibit sheep-washing in any waters within its catchment area. At Coventry rain-water tanks are not to be placed in dwelling-houses without the local authority's consent. At Liverpool guides and marshals may be provided for shepherding school children amid the dangers of modern road traffic. Other clauses enacted elsewhere include restrictions on the days of the week on which trade refuse may be burnt in yards and gardens, and precautions against danger from disused receptacles in which petrol has previously been stored. Such experimental provisions, if found useful, are copied in future Local Acts until the time perhaps arrives when they are seen to be fit for adoption as the general law of the land.

Church Assembly Measures.—Only two Measures were enacted under the machinery of the enabling Act of 1919. One restores the diocese of Southwell to the Province of Canterbury, thus redressing a breach of

historical tradition committed a century ago. The other deals with the future of Farnham Castle, an ancient building formerly associated with the bishops of Winchester; it is made possible for the Ecclesiastical Commissioners to contribute special grants for its repair.

Delegated Legislation.—For the calendar year 1935 there were 1,365 Statutory Rules and Orders registered under s. 3 of the Rules Publication Act, 1893. Some of these, as usual, play upon the statute-book. Thus the duration of the powers of the Commissioners under the Welsh Church Act is extended beyond the originally prescribed term; silk duties, imposed by various statutes, are altered by a Treasury order; the statutory obligation to give an official inspector notice of accidents in factories and workshops is extended to a variety of dangerous occurrences by an order made by the Home Secretary under the Notice of Accidents Act; and the Herring Industry Act (already summarized above) is applied to Northern Ireland. All these are cases where constitutional purists might expect direct legislation by Parliament, but Parliament has, of course, approved the delegation of legislative power; in a sense the contents of the departmental orders have been sanctioned in principle in advance and the department merely presses the button for the new law to operate. Other rules and orders contain amendments of marketing schemes for milk, pigs and bacon, regulate the importation of bacon and pork, and arrange for the grading and marking of agricultural produce such as cheese, butter, dressed poultry, fruit and vegetables. Air navigation, fire-damp detectors in coal mines, cremation in Scotland, totalizators on dog racecourses, the control of institutions and houses where mentally defective patients may be looked after, speed limits for road traffic, index marks for motor vehicles, conditions for testing would-be motorists, one-way traffic routes in London and rules of procedure for various courts—these are among the miscellaneous contents of the 1935 volume together with the inevitable regulations for housing, education, State insurance (health and unemployment) and workmen's compensation. The Treasury makes a consolidating order to comprise all the exemptions to the Import Duties Act. There is also an Import Duties (General) Order which attempts to present in one document what otherwise must be sought in many scattered places in the S.R. & O. series. An interesting feature is the Order in Council for imposing sanctions against Italy. Deemed to result from a breach of the Covenant of the League of Nations, it is made under the consequential powers to be found in the Treaty of Peace Act of 1919.

The total of Statutory Rules and Orders registered in 1935 is larger than any annual total from 1927 to 1933, but is smaller than any annual total from 1917 to 1926.

2. JERSEY.

[*Contributed by* C. W. Duret Aubin, Esq., *H.M. Attorney-General.*]

During 1935 thirteen Acts of the States of Jersey received the Sanction of H.M. in Council and became law, and three Orders in Council, applying to the Bailiwick of Jersey, with modifications, certain provisions of Acts of Parliament, were registered in Jersey, and placed upon the statute-book.

Of those sixteen measures, the following eight are perhaps of more than purely local interest.

Borstal.—By L-36 the law dealing with the detention of young offenders in Borstal Institutions in the United Kingdom is amended by the removal of the provision which made it impossible to send such an offender to a Borstal Institution unless he had been previously convicted of a felony or misdemeanour.

Workmen's Dwellings.—By L-37 a further loan of £60,000 is authorized for the purposes of the law to facilitate the construction of workmen's dwellings.[1]

Children and Young Persons.—By L-38 there are applied to Jersey certain of the provisions of the Children and Young Persons Act, 1933 (23 Geo. V, c. 12).

Workmen's Accident Insurance.—By L-49 a scheme is brought into being whereby workers, over 15 years of age, whose usual earnings, excluding overtime, do not exceed 80*s.* a week, are insured against accidents arising out of, and during the course of, their employment. Insurance is compulsory, the premium, which amounts to 3½*d.* per week per worker, being paid as to 2*d.* by the employer, 1*d.* by the worker and ½*d.* by the States.

Motor Traffic.—By L-51 legislative provision is made for the control, by a Committee of the States, of public service vehicles, and their drivers, and for the issue, by that Committee, of road service licences. Appeals from decisions of the Committee in relation to road service licences are to the Royal Court of Jersey.

Carriage by Air.—By Order of H.M. in Council of June 6, 1935—The Carriage by Air (Jersey) Order, 1935—there are applied to Jersey, with certain modifications, certain of the provisions of The Carriage by Air Act, 1932 (22 & 23 Geo. V, c. 36).

Merchant Shipping.—By two Orders of H.M. in Council of June 6, 1935, intituled respectively The Merchant Shipping Safety Convention (Jersey) No. 1 Order, 1935, and The Merchant Shipping Safety Convention (Jersey) No. 2 Order, 1935, there are applied to Jersey, with certain modifications, certain of the provisions of (*a*) Part I of The Merchant Shipping (Safety and Load Line Conventions) Act, 1932, and of (*b*) The Merchant Shipping Act, 1906, and The Merchant Shipping (Wireless Telegraphy) Act, 1919.

3. NORTHERN IRELAND.

[*Contributed by* SIR ARTHUR S. QUEKETT, K.C., LL.D.]

In the second session of the fourth Parliament of Northern Ireland (November 20, 1934 to November 13, 1935) twenty-three public general Acts received the Royal Assent, including three passed before the end of the year 1934, and noted in the *Review of Legislation* for that year. There were also two local Acts. The third session began on November 26, 1935, and two public general Acts became law in the same year.

Transport.—The Road and Railway Transport Act (c. 15) embodies a scheme for the co-ordination of transport. At the time when the measure was introduced, the railways were providing extensive facilities for the carriage of passengers and goods by rail and road; there was also a network of passenger omnibus services throughout the country; and there was a large number of vehicles hauling goods for hire or reward. Nevertheless, the Government brought forward their proposals for a reorganization of the transport industry, because they were convinced that under the

[1] Cf. *Journ. Comp. Leg.*, Third Series, vol. xviii, pt. ii, p. 19.

organization as it stood the then existing services could not be continued. The transport industry as a whole was being worked on uneconomic and wasteful lines and was to a considerable degree living on its capital. "To this," said the Minister of Home Affairs, "there can be but one end, and that in the near future. The public would be left with a broken and ineffective service, and it is the duty of the Government to prevent this." The services of Sir Felix Pole had been secured in an advisory capacity; and after interviewing the representatives of many interests, including transport undertakers, local authorities, farmers, employers and employed, Sir Felix reported that: "The outstanding feature of the proposals submitted for consideration is that practically all parties recommend the Government to take action in one form or another. Further regulation and co-ordination of transport facilities are recognized as being necessary."

The Act proceeds upon a novel plan. In the Irish Free State a similar problem had been dealt with by empowering the railway companies to acquire all road transport undertakings. In some continental countries, where the railways were State-owned, severe restrictions had been placed upon the use of road transport so as to prevent it from competing with the railways, *e.g.* restrictions as to distance or as to the character of traffic. The London Passenger Transport Act, 1933, brought under a single ownership and control the various railways, tramways, omnibuses and motor coaches operating passenger services in a defined Traffic Area.

Part I of the Northern Ireland Act sets up a public authority called "The Northern Ireland Road Transport Board," whose general duty it is to secure throughout Northern Ireland, in conjunction with the railway companies, the provision of a system of passenger and goods transport (by road, railway and otherwise) which is properly co-ordinated and gives efficient, economical and convenient services to the public. The Board consists of not less than five nor more than seven members appointed by the Minister of Home Affairs, and being "persons who have had wide experience, and have shown capacity, in transport, industrial, commercial, agricultural or financial matters, or in the conduct of public affairs." A member of either House of the Parliament of Northern Ireland is disqualified for appointment to the Board. The Board constituted by the London Act is not appointed by the Minister of Transport but by an independent body of "Appointing Trustees."

Part II of the Northern Ireland Act directs the Road Transport Board to acquire every road motor undertaking operated for hire or reward in Northern Ireland, including the passenger and freight road transport services of the railway companies, but not including the tramway and omnibus undertaking of the Belfast Corporation, or the passenger and freight road transport services of the Londonderry and Lough Swilly Railway Company. Where an undertaking is transferred to the Board, the consideration for the transfer is to be such an amount as may be agreed upon by the Board and the owners, or else determined by an arbitration tribunal, consisting of three members appointed by the Governor of Northern Ireland, having as their chairman a judge or a practising barrister-at-law or solicitor of not less than ten years' standing. Where the amount of the consideration exceeds £5,000, the excess amount is to be satisfied by the issue of transport stock unless special circumstances exist which justify any part of that excess being paid in cash. Part II also gives the Board power to use and run road vehicles of all kinds upon

public highways for the conveyance of passengers and their luggage and the carriage of merchandise. It provides for co-ordination of the services of the Board and the railway companies by means of a joint committee and a pooling scheme for receipts. It restricts the rights of persons, other than the Board, to convey passengers or carry merchandise for hire or reward by road. It contains a provision for the licensing of local carriers in Belfast and Londonderry by the Ministry of Home Affairs.

Under Part III of the Act the Road Transport Board is empowered to raise capital by means of borrowings in two forms—by temporary borrowings and by the issue of transport stock. The stock is in two categories, designated " A " and " B." The " A " stock bears a fixed interest and has a prior charge on the revenues of the Board, the interest being cumulative. The rate of interest for " A " stock, when issued in satisfaction of compensation for transferred undertakings, is 4 per cent. The rate for " A " stock issued to the public by the Board in return for cash is to be such as may be fixed by the Board, with the approval of the Ministry of Home Affairs and the Ministry of Finance. The " B " stock ranks after the " A " stock, in so far as it is issued in satisfaction of compensation for transferred undertakings. " B " stock, so issued, is to bear interest for the first two years at a maximum rate of 4 per cent., for the third year at a maximum rate of 5 per cent. and in subsequent years a further 1 per cent. may be paid, if this can be provided out of a moiety of the surplus revenue. The other moiety of the surplus goes to reserve, and so does any surplus over the 6 per cent. interest. Stock may be redeemed at par after thirty years from issue, and all " A " stock must be redeemed at par within sixty years from issue.[1]

Part IV of the Act makes provision as to matters of detail, such as a superannuation scheme for officers and whole-time members of the Board, and the wages and conditions of employment of persons in the service of the Board.

Part V contains a provision enabling compensation to be paid to persons who lose a whole-time employment by reason of the transfer of an undertaking to the Board, and to persons who, after accepting employment under the Board, are dismissed within three years otherwise than for misconduct or incapacity, or undergo an unwarranted reduction in their remuneration.

Part VI of the Act sets up a transport appeal tribunal consisting of three members, one of whom (the chairman) is to be a judge or a practising barrister-at-law of not less than ten years' standing. To this tribunal are transferred the functions of the Railway and Canal Commission as respects railway matters in Northern Ireland, and the functions of the Omnibus Fares Tribunal which had been established by the Motor Vehicles and Road Traffic Act, 1929. The appeal tribunal is empowered to hear and determine questions as to: (*a*) fares, rates and charges, (*b*) the provision of services and facilities by road or rail, and (*c*) undue or unreasonable preference on the part of the Road Transport Board or the railway companies.

A party who has appeared before the appeal tribunal may appeal on any point of law from the decision of the appeal tribunal to the Supreme Court; but, subject to this, any order made by the appeal tribunal is binding and conclusive in respect of the matter to which the order refers, and the Act makes it the duty of the Board or any railway company or

[1] See 26 Geo. V, c. 1, of the Third Session of this Parliament.

other person to comply with any such order. The appeal tribunal may, with the approval of the Lord Chief Justice of Northern Ireland, make general rules governing its procedure and practice.

Part VII of the Act contains miscellaneous amendments of law as to railway and canal companies. The powers of railway companies as to fares, rates and charges are laid down in a new provision superseding all previous enactments. Railway companies are also empowered, subject to the approval of the Ministry of Home Affairs, to enter into agreements among themselves for various purposes which might otherwise require the promotion of a private Bill.

Summary Jurisdiction and Criminal Justice.—Part I of the Summary Jurisdiction and Criminal Justice Act (c. 13) represents the final stage in the process of transferring to resident magistrates the jurisdiction of the ordinary justices appointed under commissions of the peace. The resident magistrates owed their origin to s. 31 of the Constabulary (Ireland) Act, 1836, which contained the following provision:

> In any case in which it shall appear to the Lord Lieutenant by reason of any county . . . being in a state of disturbance or owing to the absence or non-residence of a magistrate in any county. . . or for any sufficient cause to be expedient, it shall and may be lawful to and for the Lord Lieutenant by warrant under his hand and seal to appoint during his pleasure one or more persons for any county . . . to be magistrates for said county . . . and from time to time to dismiss or remove any such magistrate at his will and pleasure; and every magistrate who shall be so appointed under this Act shall . . . be and become a justice of the peace in and for the county . . . in and for which he shall be appointed.

The existence of these official magistrates made it possible from time to time to provide for the exclusion of the ordinary justices from courts of summary jurisdiction when acting in some particular capacity. Thus for the purposes of the Criminal Law and Procedure (Ireland) Act, 1887 (commonly known as the "Crimes Act"), a court of summary jurisdiction was required to consist of two resident magistrates in petty sessions; and in hearing and determining at any quarter sessions an appeal under that Act a county court judge or recorder sits and acts as sole judge. In Northern Ireland, in an Act empowering certain authorities of the Government to take exceptional steps for preserving the peace and maintaining order, provision was made that a court of summary jurisdiction, when trying a person charged with an offence against regulations made under the Act, should be constituted of two or more resident magistrates, and that a court of quarter sessions when hearing and determining an appeal against a conviction of a court of summary jurisdiction for any such offence should consist of the recorder or county court judge sitting alone. The abridgment of the jurisdiction of ordinary justices both at quarter sessions and petty sessions was carried a step further by the Intoxicating Liquor Act (Northern Ireland), 1923, which provided that all licensing applications and all cases (except simple drunkenness) under the licensing laws should be heard before a court consisting of two or more resident magistrates, with an appeal to the recorder or county court judge sitting alone; and that licensing quarter sessions are to be held by the recorder or county court judge sitting alone. Similar provisions have been applied by the Northern Ireland Parliament in the case of summary convictions for motoring offences and offences against the fishery and game laws.

Part I of the Northern Ireland Act of 1935 contains general provisions to the same effect. S.1 enacts that the county court judge shall be the sole judge of the court of quarter sessions for a county, not being a county borough, and that in a county borough s.168 of the Municipal Corporations (Ireland) Act, 1840 (under which the recorder is the sole judge of such court) shall continue to have effect. Under s.2 references to "a court of summary jurisdiction" where they occur in any enactment, whether past or future, are to be construed as referring to a resident magistrate or resident magistrates sitting in petty sessions. S.3 provides that, with certain specified exceptions, the powers and duties of a justice or justices of the peace are to be exercised and performed by a resident magistrate or resident magistrates, and that no justice of the peace, not being a resident magistrate, shall have jurisdiction to exercise or perform the same. The most notable exception is the power given to justices of the peace to take evidence in proceedings against any person charged with an indictable offence and to remand such person in custody or on bail. Among the other specified exceptions are the following: To require any person to find security to keep the peace and be of good behaviour, and to commit a person to prison in default of finding such security; to sign summonses and warrants; to administer oaths and take affidavits, etc.; to exercise the powers and duties of a judicial authority under the Mental Treatment Act (Northern Ireland), 1932; to hear and determine cases of drunkenness or vagrancy. All the powers so excepted are to be exercised by the justice out of petty sessions.

The commissions of the peace are not abolished, but the inclusion of a justice's name therein does not enable him to do anything which by reason of the Act is to be done exclusively by a county court judge or resident magistrate. The power given to the Crown by the Act of 1836 is replaced by a provision empowering the Governor of Northern Ireland, having regard to the recommendations of the Minister of Home Affairs and (so far as relates to numbers) of the Minister of Finance, from time to time to appoint fit and proper persons, being practising barristers or solicitors of not less than six years' standing, to be resident magistrates for any county or for any district consisting of any parts of a county or counties. A resident magistrate so appointed does not hold office during pleasure but during good behaviour, subject to removal from office by the Governor upon the address of both Houses of Parliament. Temporary resident magistrates may be appointed, but the ordinary appointments are of a permanent and pensionable character, retirement on the ground of length of service being possible at the age of sixty-five and compulsory upon the attainment of the age of seventy. A resident magistrate, upon being appointed and taking the oaths, becomes a justice of the peace for the county or district for which he has been appointed and for every other county and district in Northern Ireland.

It may be noted that in the Irish Free State somewhat similar changes were accomplished in the year 1924 when the Courts of Justice Act replaced the former petty sessions court by a district court presided over alone by a paid district justice who must be a practising barrister or solicitor of at least six years' standing. The same Act superseded the justices of the peace by providing for the appointment of peace commissioners who take no part in the deliberations of the district court and have no judicial powers. The taking of steps in the same direction in England has been advocated from time to time. One writer has said:

The replacement of amateur justices by stipendiaries is overdue. Not a few among the more thoughtful and conscientious of county and borough magistrates would welcome such a step. The customary objection is on the ground of cost. . . . The argument of economy . . . is not final. It is not easy to maintain that a country, either through reverence for tradition or to reduce expense, has a moral right to remain tied to an antiquated legal system which results in cruelty and injustice.[1]

The Northern Ireland Act also effects a number of reforms in procedure, and increases the jurisdiction of courts of summary jurisdiction in certain cases. This increase of jurisdiction can be justified by the fact that in future the cases will be tried by resident magistrates.

Part II of the Act deals with the appointment, salaries and superannuation of petty sessions clerks, and the constitution of petty sessions districts. Power is given to the Ministry of Home Affairs to alter the boundaries of existing districts, to abolish any district where that district has been absorbed into another district or districts, and to fix the time and place for the holding of petty sessions.

Part III deals with the summary trial of indictable offences. Power is given (s. 12) to a court of summary jurisdiction to proceed summarily with the trial of an adult charged with any one of certain offences which previously had to be dealt with on indictment. The power can only be exercised if the accused, having been informed by the court of his right to be tried by a jury, consents to be dealt with summarily. The effect of the provision is to ensure a prompt and inexpensive trial in many cases which otherwise would have to go forward to assizes or quarter sessions with consequent delay and expense.

By Part IV of the Act the jurisdiction of courts of summary jurisdiction in ejectment cases is substantially increased. The earlier jurisdiction was derived from a number of enactments under which possession of premises might be recovered at petty sessions in cases where the amount of the rent did not exceed a certain figure. This amount varied in each of the enactments, but in no case did it exceed £1 per month. Under the Act a common form of procedure is laid down applying to cases where the rent does not exceed £26 a year and the premises are held under monthly tenancies or tenancies for a lesser period.

While in England under s. 29 of the Summary Jurisdiction Act, 1879, the Lord Chancellor is designated as the authority to make rules in connexion with summary procedure, there is, in general, no corresponding authority in Northern Ireland. The Act provides for the setting up of an authority charged with the making of rules dealing with forms, costs and expenses in connexion with proceedings under Part IV. This authority is to consist of the following persons: the Attorney-General for Northern Ireland, or in his place a practising barrister, being a member of the General Council of the Bar of Northern Ireland, designated by the said Attorney-General; a county court judge or recorder designated by the Minister of Home Affairs; two resident magistrates (one of whom shall be a resident magistrate acting for the City of Belfast) designated by the Minister of Home Affairs; the president of the Incorporated Law Society of Northern Ireland, or in his place a practising solicitor, being a member of the Council of that Society, designated by its president.

A further increase in jurisdiction is provided for by Part V. The Manor Courts Abolition (Ireland) Act, 1859 (popularly called "the Small

[1] *The Quarterly Review*, July 1935, p. 48.

Debts Act"), conferred jurisdiction upon courts of summary jurisdiction in respect of the recovery of debts not exceeding £2. The 1935 Act extends this jurisdiction to cases where the amount involved does not exceed £5. This change, in addition to relieving the county courts of a considerable volume of small debt cases, is expected to benefit the trading community by providing a cheaper and more expeditious method for the recovery of small debts. Hitherto there has been no general provision in Northern Ireland, as there is in England, for the summary recovery of civil debts.[1] If such a debt exceeded the £2 limit, summary procedure, apart from special statutory provision, was not available for its recovery. By s. 22 of the Act the new small debt procedure is applied to the recovery of any sum, whether it exceeds £5 or not, which by any enactment is declared to be a debt or a civil debt which is recoverable summarily.

Part VI is designed to secure uniformity in the matter of appeals from courts of summary jurisdiction to courts of quarter sessions. These appeals formerly lay under a variety of enactments, and the procedure was not uniform. By s. 24 of the Act a right of appeal is given in cases of a civil nature to either party whether he is complainant or defendant, and in other cases to any party against whom an order is made for the payment of any penal or other sum, or for any term of imprisonment, or for the estreating of any recognizance to a greater amount than 20s. An appeal is also given to a person against whom an order is made under the Probation of Offenders Act, 1907, where he did not plead guilty or admit the offence charged. These provisions are of general application, and the earlier enactments governing appeals have been repealed.

Part VII of the Act gives (s. 26) a right of appeal to a person dissatisfied with the determination of a court of quarter sessions on any appeal to that court from a court of summary jurisdiction. The appeal lies to the Supreme Court by way of case stated and can only be taken on a point of law. The application for the case stated must be made to the court of quarter sessions within seven days after the determination of the appeal. That court may refuse to state a case if of opinion that the application is frivolous, except where the application is made by or on behalf of the Attorney-General for Northern Ireland, in which case the application must be granted. A person aggrieved by the refusal of a court of quarter sessions to state a case under the section may apply to the Supreme Court for a rule calling upon the court of quarter sessions and the other party to the proceedings to show cause why a case should not be stated, and on the hearing of any such application the Supreme Court may make such order as it thinks fit. Provision may be made by rules of court (s. 31) as to the division or court by which a case stated is to be heard and determined.

Parts VIII to XI of the Act contain miscellaneous amendments as to the procedure and powers of a court of summary jurisdiction concerning such matters as summonses, warrants, bail and recognizances, and also amendments in the law relating to various offences.

Agriculture.—The Diseases of Animals (Therapeutic Substances) Act (c. 23) provides for the regulation, by the Ministry of Agriculture, of the manufacture, sale and importation of therapeutic substances capable of being used for veterinary purposes—such as vaccines, sera, toxins, antitoxins, or salvarsan. Licences must be obtained from the Ministry to manufacture for sale, or to import, a substance otherwise prohibited by

[1] See s. 35 of the Summary Jurisdiction Act, 1879.

order under the Act. The provisions of the Act as regards importation might have been outside the legislative powers of the Northern Ireland Parliament, but for an Imperial enactment specially authorizing such legislation.[1]

Agricultural loans—that is, loans to occupiers of holdings in rural districts to enable them to purchase live stock, poultry, seeds or artificial fertilizers—were brought within the scope of Government assistance by 19 Geo. V, c. 3 and amending enactments. This assistance took the form of guarantees to be given by the Ministry of Finance in respect of loans made by joint stock banks. By s. 2 of the Exchequer and Financial Provisions Act, 1935 (c. 6) the Ministry was authorized to issue such loans direct from the Government Loans Fund.

Land Drainage.—The Drainage Act of 1925 empowered the county councils to make drainage schemes, but it was not made clear that such a scheme could subsequently be amended. An Act of 1935 (c. 21) provided for the amendment of a scheme by order of the Ministry of Home Affairs, made upon a representation of the county council, and limited to giving effect to the representation. The Act once again amends the enactments which are intended to secure that agricultural lands shall not be flooded by reason of any neglect to keep clear the watercourses running through the lands. This time the county council are authorized to remove obstructions due to rocks, boulders and such-like, and to defray their expenses out of the county rate. The Act includes some minor amendments as to the carrying out of the Bann drainage works by the Government.

Electricity Supply.—" What is an electric line ? " For the purposes of Electricity Acts passed from the year 1882 onwards, this question has been raised in various aspects and has received various statutory and judicial answers. The Electricity (Supply) Act (c. 9) disposes of one particular difficulty by enacting that the expression " electric line " includes and has always included poles, stays and other supports used to carry an electric line above ground.

Loans Guarantee Acts.—The power of the Ministry of Finance to give guarantees, in respect of loans to be applied towards the carrying out of capital undertakings calculated to promote employment, was extended for a further period by c. 7.

International Tourist Trophy Motor Race.—As in previous years this race was held on the public roads which form the " Ards " course in County Down. The necessary order was made by the county council under the Motor Vehicle Races Act of 1922, and the usual Act (c. 10) was passed to regulate the admission of motor vehicles to the race area on the day of the contest.

Educational Administration.—A series of amendments of a non-contentious character are embodied in c. 8. The Act corrects a difficulty which had arisen in regard to the delegation of certain functions by the education authority—*i.e.* the county or county borough council—to the regional or the borough education committee. It also extends the borrowing powers of an education authority so as to include loans for the acquisition of land, and for the doing of anything which the authority are authorized to do and of which the cost, in the opinion of the Ministry of Education, involves expenditure of a capital nature and ought to be spread over a term of years. Other matters dealt with by the Act are: the

[1] See the Diseases of Animals Act, 1935, s. 19 (2) 25 & 26 Geo. V, c. 31.

provision of playing fields ; the provision and maintenance of foot-paths, foot-bridges, etc., for facilitating the attendance of children at rural schools ; the concurrence of the Ministry in the appointment and removal of officers of an education authority ; election of parents' representatives on the school management committee ; transfer of teachers as between different public elementary schools under the education authority ; temporary interchange of teachers with teachers outside Northern Ireland.

Social Services.—The legislation of the year includes several measures inspired by the policy of keeping in step with Great Britain as regards social services. The National Health Insurance and Contributory Pensions Act (c. 14) empowers the Governor, by Order in Council, to amend the enactments relating to these services by applying the amendments made in a measure passed for Great Britain in the same year. A feature of the Act is a provision for the making of payments out of moneys voted by the Northern Ireland Parliament into an " Unemployment Arrears Fund " established by the Westminster Act. The Northern Ireland Act also makes provision as to the remuneration of poor law medical officers in connexion with medical benefit, and with regard to reciprocal pension arrangements to be made, under Imperial authority, between Northern Ireland and other parts of the British Empire.

In the matter of Unemployment Assistance, the " stand still " arrangement arrived at in Great Britain was adopted for Northern Ireland. This necessitated the passing of two Acts (c. 5 and c. 19). The former of these secures that the allowances payable under Part II of the Unemployment Act (Northern Ireland), 1934, to persons who, but for the operation of the latter Act, would have been entitled to transitional payments, shall continue to be not less than the payments that would have been made if transitional payments had continued. The Act also postpones the " second appointed day " for the purpose of the 1934 enactments. By c. 19 temporary provision is made for the financial adjustments necessary by reason of the second appointed day having been postponed.

The Unemployment Insurance (Amendment) Act (c. 20) makes an amendment with reference to the scope of the regulations for the crediting of insurance contributions in the case of persons continuing to receive whole-time education. The same Act effects a clarification of the Unemployment Insurance Acts as regards " orders," " special orders " and " regulations." For the future, executive action and subordinate legislation will be carried out by means of " regulations," except in the case of special and supplementary schemes. The Act also substitutes an annulment by resolution of either House of Parliament for an annulment by way of Address to the Crown in the case of regulations made under the Acts.

Finance.—The Finance Act (c. 11) bestows concessions upon the taxpayer. It reduces the " horse-power tax " on private motor-cars by 12½ per cent., and lowers the duty on farmers' lorries, light trailers and heavy-oil goods vehicles. A concession in entertainments duty is given in respect of " the living theatre." This takes the form of laying down a lower scale of duty on payments for admission to an entertainment in which the performers are personally present and performing, and which consists of one or more of the following items : a dramatic performance, a ballet, a performance of vocal or instrumental music, a lecture, a recitation, a music-hall or other variety entertainment, a circus and a travelling

show. A section of the same Act provides for two diversions of income from the Road Fund. Twenty-five per cent. of the motor vehicles duties are to be retained in the Exchequer as a kind of luxury tax instead of being handed over to the Road Fund. The penalties and fines recovered in respect of motoring offences are to go to the Exchequer and not to the Fund. Another section of the Finance Act authorizes a six years' extension of the second issue of Ulster Savings Certificates.

A technical measure, entitled "the Exchequer and Financial Provisions Act" (c. 6), includes a provision for a matter of more general interest. In the year 1928 a sum had been voted for expenditure in connexion with the maintenance of the 36th (Ulster) Division War Memorial at Thiepval, and this sum was held by the Ministry of Finance as a fund for the maintenance of the Memorial. By the Act of 1935, the fund was directed to be transferred to the Imperial War Graves Commission, for applying the income to the same object; and a charge of £120 per annum was contingently placed upon the Consolidated Fund, in case the income of the transferred capital should prove insufficient to meet the cost of maintaining the Memorial.

Superannuation of Civil Servants.—The Superannuation Act (c. 2 of the third session of this Parliament) makes some important advances as regard the superannuation benefits of persons serving in the civil service of Northern Ireland. It applies the Superannuation Act, 1909, to women entering the service in the future, and enables the Ministry of Finance to allow women already serving to adopt that Act. A retiring civil servant may allocate a part of his or her superannuation benefits to a wife, husband or dependants. The reckoning of "unestablished"—*i.e.* non-pensionable—service is put on a definite basis. There is a new arrangement for the future "averaging" of the salary of a retiring officer in return for a slightly higher rate of superannuation. New provision is made as to the benefits which a civil servant may retain if he goes out of the service into approved employment outside. The Act does not apply to "existing Irish officers" in Northern Ireland—that is to say, officers who were transferred from the Imperial civil service under the Government of Ireland Act, 1920. The superannuation benefits of those officers were secured to them by the 1920 Act, and have been extended by an Act of the United Kingdom Parliament to which the Northern Ireland measure is a parallel.

Lord Carson.—The great Ulster leader died on October 22, 1935. It was said at the time that no people had followed a man with greater earnestness or greater confidence than those with which the Ulster people followed Lord Carson. His Majesty was represented by the Governor at the State funeral which took place in Belfast. Of this occasion the statute-book bears record in an Act (c. 16), "To enable the body of Edward Henry, Baron Carson of Duncairn in the County of Antrim, to be buried in the Cathedral and Parish Church of Saint Anne, Belfast."

4. IRISH FREE STATE (SAORSTÁT ÉIREANN).

[*Contributed by* A. Denis Pringle, Esq., *Barrister-at-Law.*]

Public Acts passed—47.

A great number of the Acts passed during the year were of little general interest, some of them merely making minor amendments in earlier statutes and several of them being concerned with the imposition

of special customs duties. The Constitution was further amended by Act No. 26 which removed from Art. 3 (dealing with citizenship of Saorstát Éireann) the words printed in italics in the following part of that Article " and shall *within the limits of the jurisdiction of the Irish Free State (Saorstát Éireann)* enjoy the privileges and be subject to the obligations of such citizenship." The following are the Acts which would appear to be of the most general interest.

Citizenship.—The Irish Nationality and Citizenship Act, No. 13, is expressed to be " An Act to provide for and regulate for all purposes, municipal and international, the acquisition by birth or otherwise of citizenship of Saorstát Éireann and the forfeiture or loss of such citizenship." It had been already provided by Art. 3 of the Constitution that " every person domiciled in the area of the jurisdiction of Saorstát Éireann at the time of the coming into operation of the Constitution, who was born in Ireland, or either of whose parents was born in Ireland, or who has been ordinarily resident in the area of the jurisdiction of Saorstát Éireann for not less than seven years, is a citizen of Saorstát Éireann. . . . Provided that any such person, being a citizen of another State, may elect not to accept the citizenship hereby conferred." This Act deals with the acquisition of citizenship since the coming into operation of the Constitution. S. 2 provides who shall be " natural-born citizens " *i.e.* (*a*) persons born in Saorstát Éireann after the coming into operation of the Constitution, (*b*) persons born outside Saorstát Éireann after the coming into operation of the Constitution and before the passing of the Act whose father was at the date of their birth a citizen of Saorstát Éireann, and (*c*) (subject to certain provisions as to registration of birth, and the making of a declaration of retention of citizenship on attaining twenty-one years) persons born outside Saorstát Éireann after the passing of the Act whose father was at the date of their birth a citizen of Saorstát Éireann. It is also provided that every person who is not a citizen under Art. 3 of the Constitution, but who was born before its coming into operation, either in Ireland, or of parents of whom at least one was born in Ireland, shall—(*a*) if such person is at the passing of the Act or becomes thereafter permanently resident in Saorstát Éireann be deemed to be a " natural-born citizen," or (*b*) if such person is permanently resident outside Saorstát Éireann and is not a naturalized citizen of any other country be deemed, upon being registered as provided in the Act, to be a " natural-born citizen."

Provision is made in the Act for the issue of certificates of naturalization to persons residing in the country but who are not citizens, and also for the revocation of such certificates. The widow of a non-citizen can, by making a declaration, resume her citizenship (s. 14), and the marriage of a citizen to a non-citizen shall not *of itself* operate to deprive the one party of citizenship or to confer citizenship on the other party (s. 15), but provision is made for such persons either ceasing to be citizens or becoming citizens under certain circumstances.

S. 21 provides that, save as otherwise provided, a citizen who after attaining twenty-one years becomes a citizen of another country ceases to be a citizen of Saorstát Éireann. The Executive Council is empowered by s. 23, where it is satisfied that citizens of Saorstát Éireann enjoy in any country all or any of the rights and privileges of citizens of such country, to declare that the citizens of such country shall enjoy in Saorstát Éireann all or any of the rights and privileges of citizens. S. 33 (2) repeals the

common law relating to British nationality if and so far as it was in force in Saorstát Éireann.

Immediately following this Act the Aliens Act, No. 14, was passed, and this Act defines an "alien" as "any person who is not a citizen of Saorstát Éireann." Aliens have the same property-rights as citizens, save in regard to the ownership of ships and aircraft registered in Saorstát Éireann. Orders for the control of aliens may be made by the Minister for Justice, and the Act contains certain restrictions on the change of names by aliens except under licence. The Executive Council is empowered to exempt the citizens of any particular country from any of the provisions of the Act, and by order made on April 12, 1935 (No. 80 of 1935) they exempted citizens of the following countries: the United Kingdom of Great Britain and Northern Ireland, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, Newfoundland and India.

Courthouses.—The Courthouses (Provision and Maintenance) Act, No. 18, vests the custody and control of courthouses throughout the country in the District Court Clerk or the County Registrar and provides that, where a county council fails to keep a courthouse in proper repair, the Minister may have the necessary work done and recover the cost from the council.

Criminal Law.—New and important provisions are contained in the Criminal Law Amendment Act, No. 6. By s. 2 the defilement of a girl under fifteen years of age (instead of thirteen, as formerly) is made a felony punishable with penal servitude for life or for any term not less than three years or with imprisonment for any term not exceeding two years. Defilement of a girl between the ages of fifteen and seventeen is made a misdemeanour (s. 2). The penalties for indecent assault are increased in the case of a second offence (s. 6) and the procuration of a girl or woman, whether under or over twenty-one years, is now a misdemeanour (s. 7). The offences created by ss. 16, 17 and 18 of the Children Act, 1908, are made applicable to children under the age of seventeen instead of sixteen (s. 11), and fifteen is substituted for thirteen in the Punishment of Incest Act, 1908 (s. 12). The penalties for keeping a brothel are increased (s. 13), and s. 14 provides that "it shall not be a defence to a charge of indecent assault upon a person under fifteen to prove the consent of such person." The Act, for the first time, prohibits the sale, advertising for sale and importation of contraceptives (s. 17) and "every person who commits, at or near and in sight of any place along which the public habitually pass as of right or by permission, any act in such a way as to offend modesty or cause scandal or injure the morals of the community" is guilty of a summary offence (s. 18).

Dance Halls.—The Public Dance Halls Act, No. 2, makes provision for the licensing, control and supervision of places used for public dancing.

Finance.—Act No. 28 is the Finance Act. Income-tax remains at 4*s.* 6*d.*, but an increase of 25 per cent. is made on the valuation of property (other than lands, farmhouses and farm buildings) for the purpose of assessment under Schedule A. Profits made from building operations or from the sale or demise of lands acquired either with the intention of selling or so demising them or with a view to their development by the erection of buildings or the reconstruction of buildings are to be included in profits under Schedule D. Persons resident outside the country (other than citizens or persons so residing because of their health or nationals

of a country exempted from the provisions of the Aliens Act) are precluded from claiming certain allowances from income-tax (s. 8); where a sum of money exceeding £100 is deposited or lodged (otherwise than on current account) in a Bank in the joint names of two or more persons one of whom dies, it is made an offence for the Bank to pay out such money to the survivor, unless a certificate is furnished that there is no outstanding claim for death duty in respect thereof (s. 33). Entertainments duty on cinematographic entertainments and customs duty on tea and sugar are increased, but wireless sets for the use of blind persons are exempted from duty (s. 23).

League of Nations.—The League of Nations (Obligations of Membership) Act, No. 40, empowers the Executive Council to take measures for the purpose of carrying out the prohibition of the export to Italy or to Italian possessions, of arms, ammunition and implements of war, of rendering impossible loans to the Italian Government, and of organizing the mutual support of members of the League applying "sanctions" against Italy.

Local Government.—Act No. 9, the Local Government (Extension of Franchise) Act, extends the franchise by providing that "every person (without distinction of sex) who on any qualifying date is a citizen of Saorstát Éireann and has attained the age of twenty-one years is entitled to be registered as a local government elector." The Local Loans Fund Act, No. 16, creates a fund to be the source from which loans from public moneys to local authorities may be made.

Milk.—The Milk and Dairies Act, No. 22, was passed to improve the standards of purity and wholesomeness of milk and provides for the registration of dairymen and dairies and prohibits the sale of milk by unregistered dairymen or on unregistered premises. It also provides for the inspection of animals by veterinary officers, prohibits the sale of infected milk and makes provision for the taking of samples of milk for testing purposes.

National Loan Conversion.—Act No. 39 provides for the conversion of holdings of stock in Irish Free State 5 per cent. National Loan 1935–45 into a new stock to be created.

Pigs and Bacon.—Probably one of the longest Acts on the statute book is No. 24, which contains 154 sections making provision for the control and regulation of the production and marketing of bacon and for the regulation of the price of pigs.

Shannon Fisheries.—Act No. 4 provides for the management of the fisheries of the River Shannon by the Electricity Supply Board and for the payment of compensation for injury to fisheries owing to the operation of the Shannon hydro-electric works.

Slaughter of Animals.—Act No. 45 makes provision for securing the more humane treatment of animals in slaughter-houses, for instance, by prohibiting the slaughter of any animal in sight of another animal, or by an "unapproved instrument," or by a person other than a veterinary surgeon or the holder of a "slaughter licence" issued under the Act. Exemptions in regard to the method of slaughter are contained in favour of Jews and Mohammedans.

Widows and Orphans.—An important Act passed during the year is No. 29—the Widows and Orphans Pensions Act. Part II provides for "Contributory Pensions" which are payable to the widows and orphans (the latter being under a certain age) of "insured persons" dying after

a certain date (and who were not over seventy years of age on that date), provided certain conditions are complied with. An "insured person" is (*a*) a person who is an insured person within the meaning of the National Health Insurance Acts, (*b*) a soldier or (*c*) a person employed in certain "excepted employments." Part III deals with "non-contributory pensions" payable to the widows and orphans of certain persons who do not come under the provisions of Part II, or who were at the date of their death "small-holders" (*i.e.* the occupiers of holdings under £8 valuation) within the meaning of the Act. No pension is payable where the means of the widow or orphan exceed a certain amount. S. 31 provides that a sum shall not be paid on account of a pension, if payment is not obtained within three months of the date on which it becomes payable. If a widow is entitled under the Act to both a "contributory" and "non-contributory" pension the latter is not to be payable to her. The costs of pensions payable under the Act are provided for by additional contributions under the National Health Insurance Acts. Pensions payable under the Act are not to be taken into account in the assessment of damages under the Fatal Accidents Acts or of compensation under the Workmen's Compensation Acts (s. 60).

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* FREDERICK READ, ESQ., LL.B., *Professor of Law, Manitoba Law School.*]

Acts passed—101: Public—66; Local and Private—5; Divorce—30.

The Sixth Session of the Seventeenth Parliament began on January 17, 1935, and closed by prorogation on July 5, 1935.

Agriculture.—C. 62, the Fruit, Vegetables and Honey Act, provides for the grading and inspection of products, and for the licensing and registration of commission agents, and other matters affecting the sale and purchase of fruits, vegetables and honey.

Banking.—In view of the uncertainties of the international situation as to currencies and foreign exchange values it was deemed desirable that a fund be constituted to be available as occasion might arise to aid in the control and protection of the external value of the Canadian monetary unit. The Exchange Fund Act, c. 60, was therefore passed, and provides for the establishment of an exchange fund. All gold held as reserve by the Bank of Canada is to be valued by the Bank at the current market price, *i.e.* the amount realizable from the sale of gold in London or New York converted into Canadian dollars at the current rate of exchange. Any profit resulting from the valuation of gold as provided in the Act is to be credited by the Bank to a special account in the name of the Minister of Finance. Under s. 6, for the purpose of endeavouring to control the external value of the Canadian monetary unit or of checking undue fluctuations in its exchange value, the Minister may directly or through such agencies as he may designate cause any balance in the special account to be invested in (*a*) gold, (*b*) foreign exchange as defined in s. 26, ss. 2 (*b*) of the Bank of Canada Act, and (*c*) balances with any bank in

London or New York designated by the Minister of Finance. S. 6 is not to go into force until proclaimed by the Governor in Council.

Bankruptcy.—The Farmers' Creditors Arrangement Act, 1934, was amended by c. 20. The amending Act provides that no proposal under the Act, nor the approval or confirmation thereof, will release any person who under the Bankruptcy Act would not be released by an order of discharge if the debtor had been adjudged bankrupt, nor will the approval or confirmation of a proposal release any security given by any third person. This brings the Act in line with s. 148 of the Bankruptcy Act. The automatic stay of proceedings on the filing of a proposal under the Act is extended to a period of ninety days (instead of sixty) from the date of the filing of the proposal. Power is given to appoint an *ad hoc* Chief Commissioner in case the Chief Commissioner is, for any sufficient reason, unable to act. The approval of the court is not now necessary to a proposal confirmed by the Board. Power is given to the Board to direct any of its members on its behalf to inspect and investigate any or all circumstances of any request for review, and to report to the Board. An insolvent farmer debtor resident in Quebec, whose liabilities to creditors provable as debts under the Bankruptcy Act exceed $500, may make an assignment for the general benefit of his creditors in any case where the Board declines to formulate a proposal and certifies that in its opinion the debtor's affairs can best be administered under the Bankruptcy Act. The Farmers' Creditors Arrangement Act is not, without the concurrence of the creditor, to apply in the case of any debt incurred after May 1, 1935.[1]

Combines.—The Combines Investigation Act has, by c. 54, been amended in many respects, too numerous to mention here. Amongst these, however, we note that the term " combine " has been newly defined and that the duties of the Registrar under s. 10, as it appears in the original Act, are now transferred to the Dominion Trade and Industry Commission, established under the Dominion Trade and Industry Commission Act of 1935.[2] S. 11, ss. 1, as amended, now admits of an application to the Commission for investigation only in cases where the applicants are of the opinion that a combine exists, and not where they are of the opinion that one is being formed. The Act has been so amended as to place the power respecting investigations under the Act in the hands of the Commission, instead of the Minister, and all the necessary powers to this end appear to be included in the amending Act now under review.

Companies.—The Companies Act has been amended by c. 55 in many respects, including the provisions regarding cancellation of letters patent, the allotment of shares and the consideration payable therefor, by-laws respecting consolidation, reduction, increase, etc., of share capital, the creation or conversion of preferred shares, matters affecting the prospectus and offering of shares to the public, responsibility of directors, the details of the balance sheets and certain other matters affecting financial statements.

Copyright.—C. 18 adds to the Copyright Amendment Act, 1931, provisions to the effect that no action or other proceedings to enforce any

[1] The last-mentioned Act and the 1935 amendments (*supra*) were declared by the Supreme Court of Canada *infra vires* the Parliament of Canada; see (1936) S.C.R., 384, but leave to appeal to the Judicial Committee of the Privy Council was granted. This appeal was dismissed by the Judicial Committee on January 28, 1937.

[2] See *infra*: Industry.

remedy for infringement of the performing right in any dramatico-musical or musical work claimed by any association, society or company referred to in s. 10, ss. 1, of the Copyright Amendment Act, 1931, shall be commenced or continued, and no judgment or sentence shall be rendered in any court against any person who has tendered or paid the fees, charges or royalties which are specified, revised or otherwise prescribed pursuant to the provisions of s. 10. It is also provided that unless the consent of the Secretary of State of Canada is given in writing, no action or other proceedings to enforce any remedy, for infringement of the performing right in any dramatico-musical or musical work claimed by any association, society or company referred to in s. 10, ss. 1, of the Copyright Amendment Act, 1931, shall be commenced or continued, and no judgment or sentence shall be rendered in any court after notice has been published in the *Canada Gazette* that a commissioner has been appointed under the Inquiries Act to make an investigation and report, as provided in s. 10, ss. 2, but the stay of proceedings shall not be effective for more than six months unless the Secretary of State in writing extends the time.

Criminal Code.—The Criminal Code has been amended by c. 36 in respect to the offence mentioned in s. 215 in regard to children who are in danger of being or becoming immoral, so that the irrebuttable presumption mentioned in ss. 3 of s. 215 will not apply in the case of two persons who are not married to each other, but are living together as man and wife, and reputed to be man and wife, and where the child so affected is the child of the two persons so living together. No prosecution for an offence under s. 215 is to be commenced after the expiration of one year from the time of the commission of the offence. C. 56 also amends the Code in respect to race meetings, gambling devices, untrue or misleading statements made for the purpose of procuring a passport, false statements in advertisements respecting the sale of goods, offences in regard to minimum wage rates and hours, employment of child labour, dealers in second-hand goods, discrimination against trade competitors and the treatment of mentally deficient persons who are imprisoned. The amending statute also allows an appeal by the Attorney-General to the Supreme Court of Canada from the judgment of a Court of Appeal which sets aside a conviction or dismisses an appeal against a judgment or verdict of acquittal in respect of an indictable offence in certain cases. An important amendment is also made by allowing a jury to consist of six jurymen only in the provinces of Saskatchewan and Manitoba, instead of twelve as formerly.

Customs and Excise.—By c. 28 the customs tariff is amended in many respects, too numerous to mention here; and c. 29 makes amendments to the Excise Act, 1934, giving the Governor in Council power to restore duties which have been reduced on liquors if the prices of spirituous or malt liquors to the customers have not been reduced to, or are not being maintained at, levels which give the customer the full benefit of the reduction of the duty. The amending Act also imposes a duty of $4 on every gallon of the strength of proof distilled in Canada, and so on in proportion for any greater or less strength within the strength of proof and for any less quantity than a gallon.

Drought.—C. 23 provides for the establishment of a committee for the purpose of advising the Minister of Agriculture as to the best methods to be adopted to secure the rehabilitation of the drought and soil-drifting

areas in Manitoba, Saskatchewan and Alberta and to develop and to promote within those areas systems of farm practice, tree culture and water supply that will afford greater economic security.

Economic Council.—C. 19 provides for the establishment, constitution and powers of the Economic Council of Canada. The principal duties of the Council are to discharge such duties of an advisory character as the Chairman may request them to undertake and, in particular, to study, investigate, report and advise upon questions relating to the general trend of social or economic conditions or of any social or economic problem of Canada, to promote and co-ordinate social and economic research in Canada, to make recommendations to co-ordinate the activities of a social or economic character of the several departments of the Government of Canada, to make recommendations as to the organization of statistics as the basic data required for social and economic investigations, and to publish such reports and findings as may be considered to be in the public interest. The Council is to meet twice a year, or oftener as may be decided by the Chairman, and may set up committees in connexion with any questions referred to it.

Farm Loans.—By c. 16 the Canadian Farm Loan Act is amended in many respects in regard to the constitution and powers of the Board, the provision of capital for its requirements, the limitation of outstanding bonds, the class of security upon which loans shall be made and the conditions of repayment, the right in which His Majesty shall hold lands mortgaged to the Board and the priorities in respect of loans, the power of the Board to pay taxes and insurance in regard to mortgaged property, and other matters relative to the conduct of the affairs of the Board.

Fishermen.—C. 52 has been passed for the purpose of establishing in Canada a system of long-term mortgage credit for fishermen. The Act is to be administered by the Canadian Farm Loan Board and provides for the raising of the necessary money and the conditions on which loans shall be made repayable.

Holidays.—By c. 6 the name "Remembrance Day" is substituted for "Armistice Day" in reference to holidays, as provided for in s. 27, par. 11, of the Interpretation Act.

Housing.—The Dominion Housing Act, c. 58, empowers the Economic Council established by the Economic Council of Canada Act, 1935, *supra*, to study, investigate, report and advise as to housing conditions in Canada or any part of Canada, and as to the best means to be adopted to improve housing conditions. Under the Act the Minister of Finance may with the approval of the Governor in Council enter into contracts with an approved lending institution or local authority to join with such institution or local authority in the making of loans to assist in the building of houses under the conditions mentioned in the statute.

Industry.—Canada was a signatory to the Treaty of Peace signed at Versailles on June 28, 1919, which treaty was confirmed by the Treaty of Peace Act, 1919. By Art. 23 of the Treaty the signatories each agreed that they would endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and by Art. 427 of the Treaty it was declared that the well-being, physical, moral and intellectual of industrial wage earners is of supreme importance. A draft convention respecting the application of the weekly rest in industrial undertakings was agreed upon at a general

conference of the International Labour Organization of the League of Nations. C. 14, entitled the Weekly Rest in Industrial Undertakings Act, and the three statutes next mentioned were passed with the intent to discharge the obligations assumed under the Treaty and the Convention, which Convention was ratified by Canada. The Weekly Rest in Industrial Undertakings Act provides that the whole of the staff employed in any industrial undertaking, public or private, shall, except as otherwise provided in the Act, be granted by the employed in every period of seven days a period of rest comprising at least twenty-four consecutive hours. Wherever possible this period of rest is to be granted simultaneously to the whole of the staff, and shall wherever possible be the Lord's Day as defined in the Lord's Day Act. This provision does not, however, apply in the case of persons holding positions of supervision or management, nor to persons employed in a confidential capacity. Where the weekly rest given by the Act does not coincide with the Lord's Day as defined in the Lord's Day Act, the employer is required to make known the days and hours of rest by means of notices posted conspicuously in the establishment, or in other convenient place, or in any other manner determined by the Governor in Council by regulation. The Act is to come into force three months after the date on which it was assented to; *i.e.* April 4, 1935. It should be pointed out that in a reference to the Supreme Court of Canada in respect of this Act and the Minimum Wages Act, *infra*, the Supreme Court divided equally, Duff C.J. and Davis and Kerwin JJ., holding that the Acts were *intra vires* the Parliament of Canada, and Rinfret, Cannon and Crocket JJ., being of the opinion that they were *ultra vires*.[1] Special leave to appeal was granted by the Judicial Committee of the Privy Council on July 29, 1936, in the matter of the Weekly Rest in Industrial Undertakings Act, *supra*.[2]

C. 38 was passed for the purpose of establishing an Employment and Social Service Commission, to provide for a national employment service, for insurance against unemployment, for aid to unemployed persons and for other forms of social insurance and security and for the purposes related thereto. The Act is based upon the furnishing of funds for providing unemployed benefit and other payments by moneys derived partly from the Dominion Parliament, partly from contributions by employed persons and partly from contributions by the employers of those persons, whose contributions are to be paid by means of revenue stamps or otherwise as may be prescribed by the Employment and Social Insurance Commission. The rates of contributions by employees and employers are set out in the second schedule to the Act. On a reference to the Supreme Court of Canada this Act was declared *ultra vires* of the Parliament of Canada by a majority of the judges, consisting of Rinfret, Cannon, Crocket and Kerwin JJ., Duff C.J. and Davis J., holding that the Act is *intra vires*.[3] Special leave to appeal was granted by the Judicial Committee of the Privy Council on July 29, 1936, in reference to this decision.[4]

C. 44, the Minimum Wages Act, was passed to provide for minimum wages pursuant to the Convention concerning minimum wages adopted

[1] See (1936) S.C.R., 461.

[2] In the judgment delivered by their Lordships in this appeal, the Judicial Committee held that the Act was *ultra vires* of the Parliament of Canada. 53 T.L.R. 325.

[3] See (1936) S.C.R. 427.

[4] This appeal was dismissed by the Judicial Committee. 53 T.L.R. 332.

by the General Conference of the International Labour Organization of the League of Nations in accordance with the relevant articles of the Treaty of Peace. The trades to which the Act applies are those which the Governor in Council may declare, and under s. 3 such minimum rates of wages as shall pursuant to the Act be fixed as payable in the rateable trades are to be paid by employers to workers in those trades. The Governor in Council may on the recommendation of the Minister of Labour and by regulation provide for the operation by or under the Minister of machinery for fixing minimum wages. On a reference to the Supreme Court of Canada there was an equal division of judges, Duff C.J., and Davis and Kerwin JJ., declaring that the Act was *intra vires* the Parliament of Canada, and Rinfret, Cannon and Crocket JJ., declaring that the Act was *ultra vires*.[1]

S. 62 (the Limitation of Hours of Work Act) is intended to provide for the limiting of the hours of work in industrial undertakings to 8 in a day and 48 in the week. Under the Act no person is to employ or require or permit any person to work in any public or private industrial undertaking or in any branch thereof, other than undertakings in which only members of the same family are employed, for hours in excess of 8 in the day and 48 in the week, except as provided in the Act. The Governor in Council may define the line of division which separates industry from commerce and agriculture for the purpose of determining the employers and employees to whom the Act is to apply. The provisions just mentioned do not apply to persons who hold positions of supervision or management, nor to persons employed in a confidential capacity. The Act provides that where by law, custom or agreement, the hours of work on one or more days of the week are less than 8 the limit of 8 may be exceeded on the remaining days of the week by sanction of the Governor in Council or by agreement between employers' and workers' organizations or representatives, provided that in no such case shall the daily limit of 8 hours be exceeded by more than one hour. Provision is also made in respect to persons employed in shifts and also in cases of urgency or *vis major*. The Governor in Council may except certain industrial undertakings from the operation of the Act, and the duty is cast upon the employer to notify by suitable means the hours at which work begins and ends. On a reference to the Supreme Court of Canada there was an equal division, Duff C.J., Davis and Kerwin JJ., being of the opinion that this Act was *intra vires* the Parliament of Canada, and Rinfret, Cannon and Crocket JJ., being of the opinion that it was *ultra vires*.[1]

The Fair Wages and Hours of Labour Act, c. 39, makes provision respecting fair wages and hours of labour in relation to Dominion Public Works and Contracts. Under s. 3 of the Act, every contract made with the Government of Canada for construction, remodelling, repair or demolition of any work will be subject to the following conditions respecting wages and hours: (*a*) All persons in the employ of a contractor, sub-contractor or any other person doing or contracting to do the whole or part of the work contemplated by the contract, must during the continuance of the work be paid " fair wages," which term means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed for the character or class of

[1] See (1936) S.C.R. 461. The Judicial Committee, delivering judgment in the appeal brought by special leave, held the Act to be *ultra vires* of the Parliament of Canada. 53 T.L.R. 325.

work in which such workmen are respectively engaged, but shall in all cases be such wages as are fair and reasonable; (*b*) The working hours of persons while so employed shall not exceed 8 hours per day nor 44 hours per week, except in such special cases as the Governor in Council may otherwise provide, or except in cases of emergency as may be approved by the Minister of Labour. These provisions, however, do not apply to the purchase of materials, supplies or equipment for use in the work contemplated under any contract of sale and purchase. Agreements for construction, remodelling, repairing, etc., any work otherwise than for the Government of Canada which involve Dominion aid must provide for the observance in the execution of the work contemplated all the conditions respecting "fair wages" and hours referred to above.

C. 59, the Dominion Trade and Industry Commission Act, was passed in view of the recommendation of the majority of the Commissioners appointed under Part I of the Inquiries Act to continue and complete the investigation begun by the Select Special Committee appointed to inquire into and investigate the cause of the large spread between prices received for commodities by the producers thereof and the prices paid by the consumers therefor, and the system of distribution in Canada of natural and manufactured products. The Act provides for the establishment and operation of a Commission to be known as the Dominion Trade and Industry Commission, consisting of three commissioners, of whom one shall be the Chief Commissioner and another the Assistant Chief Commissioner. The members for the time being of the Tariff Board shall be the Commissioners, and the Chairman and the Vice-Chairman of the Board shall be the Chief Commissioner and Assistant Chief Commissioner respectively. Each Commissioner is to hold office only during such time as he continues to hold office as member of the Tariff Board. The Commission is charged with the administration of the Combines Investigation Act and exercises all the powers and jurisdiction and performs all the duties conferred on the Commission under that Act. On a reference to the Supreme Court of Canada it was held that ss. 14, 18 and 19 of the Act are *ultra vires* and that ss. 16, 17, 20, 21 and 22 are *intra vires* the Parliament of Canada. Special leave to appeal from this decision was granted by the Judicial Committee of the Privy Council on July 29, 1936.[1]

Live Stock.—By c. 42 the Live Stock and Live Stock Products Act is amended. Amongst the amendments we notice that "export" is defined to mean export out of Canada or out of any province to any other province thereof; the term "exporter" means the owner of live stock or live stock products exported; "exporting agent" means any person other than the owner thereof who on behalf of the owner exports any live stock or live stock products; the term "packer's yard" means any enclosed place owned, controlled or operated by any person engaged in the business of slaughtering to the number of 2,000 in any three consecutive months, or of 5,000 in any year, animals fit for food and packing and preparing their meats for market, or by his agent, and used in connexion with receiving, holding or weighing live stock for slaughter, or for marketing or for shipment for slaughter. The definition of "trucker" is also given as an operator of a public commercial vehicle.

[1] In this appeal their Lordships held that ss. 18 and 19 were not *ultra vires* of the Parliament of Canada. 53 T.L.R. 337.

Natural Products.—The Natural Products Marketing Act, 1934, is amended by c. 64 in respect of the definition of the term "natural product," which now includes animals, meats, eggs, wool, dairy products, fruit and fruit products, vegetables and vegetable products, maple products, honey, tobacco, lumber and such other natural product of agriculture and of the forest, sea, lake or river, and such article of food or drink wholly or partly manufactured or derived from any such product and such article wholly or partly manufactured or derived from a product of the forest as may be designated by the Governor in Council. The penalty clauses in the Act have also been amended. On a reference to the Supreme Court of Canada, concerning the principal Act (*i.e.* the Natural Products Marketing Act, 1934) and this amending Act, these Acts were held to be *ultra vires* the Parliament of Canada.[1] Special leave to appeal was granted by the Judicial Committee of the Privy Council on July 29, 1936.[2]

Patents.—The law relating to patents has been amended and consolidated as appears in c. 32. This Act is to come into force in whole or in part upon dates to be fixed by one or more proclamations of the Governor in Council, and the Patent Act, R.S.C. 1927, c. 150, and the amendments thereto are repealed.

Railways.—C. 17 authorizes the provision of moneys to meet expenditures made and indebtedness incurred by the Canadian National Railways during the calendar year 1935. C. 3 empowers the Governor in Council to provide for the refunding of maturing and callable stocks, notes, bonds, etc., of the Canadian National Railway Company and the Canadian Northern Railway Company and of any one or more of the other companies comprised in the Canadian National Railways as defined in S.C. 1929, c. 10. The National Company may issue notes, bonds, etc., in respect of the refunding, and the Governor in Council may authorize the guarantee by His Majesty in the right of the Dominion of the principal and interest of the substituted securities, not to exceed $200,000,000.

Relief.—C. 13 empowers the Governor in Council to support and to supplement the relief measures of the provinces and grant them financial assistance, and makes provision for further expenditure for relief purposes under the Department of National Defence and the Department of the Interior. C. 34 empowers the Governor in Council to authorize the execution and completion of specified public works throughout Canada for the purpose of accelerating recovery of trade and industry. In the execution of these works the first consideration, so far as practicable and consistent with reasonable efficiency and economy, is to be given to the employment of those who, if available and competent, are most in need in the locality in which the work is to be performed, without any discrimination whatever, preference being shown to unemployed ex-service men and unemployed married and single men with dependants. The public works in process of construction at the time of the passing of c. 34 amounted approximately to $30,000,000.

Trade and Commerce.—By c. 2 the additional protocol to the trade agreement between Canada and France set out in the schedule to the Act is approved and has the force of law. After the additional protocol is brought into force and so long as it remains in force the natural and manu-

[1] See (1936) S.C.R. 398.

[2] This appeal was dismissed by the Judicial Committee, their Lordships holding unanimously that these Acts were *ultra vires* of the Parliament of Canada. 53 T.L.R. 330.

factured products mentioned in the protocol originating and coming from the French customs territory, the French colonies and countries under French protectorates and territories under French mandate, imported into Canada will be admitted into Canada at the rates and duties provided in the protocol. The Act is to come into force on a day to be fixed by proclamation. C. 51 approves the Convention of Commerce between Canada and Poland set out in the schedule to the Act. After the Convention of Commerce is brought into force and so long as it remains in force, the natural and manufactured products mentioned in the Convention, originating and coming from the Polish customs territory into the Dominion of Canada, will be admitted to the Dominion at the rates of duties provided in the Convention. This Act came into force on August 15, 1936.

Weights and Measures.—The Weights and Measures Act has been amended in many respects, too numerous to specify here, and the reader is referred to the amending Act, c. 48, for details.

Wheat Board.—C. 53 provides for the establishment and operation of the Canadian Wheat Board for the purpose of the marketing of wheat in inter-provincial and export trade. In addition to other powers the Board is empowered to take delivery of wheat for marketing as offered by the producers thereof, to buy and sell wheat, provided that no wheat shall be purchased by the Board except from the producers thereof, to store and transport wheat, and to operate elevators either directly or by means of agents. The term " producer " as used in the Act includes, as well as any person actually engaged in the production of wheat, any person entitled, whether as landlord, vendor, mortgagee, or otherwise, by contract or operation of law to the wheat grown by a producer or to any share therein ; and the term " wheat " means wheat produced in the provinces of Manitoba, Saskatchewan, Alberta and British Columbia. The term " elevator " is defined as a grain elevator or warehouse declared by s. 233 of the Canada Grain Act to be a work for the general advantage of Canada. The Board consists of three members, appointed by the Governor in Council, and each member is to hold office during good behaviour, but may be removed for cause at any time by the Governor in Council, and no commissioner is to hold office beyond the age of seventy years. The headquarters of the Board are to be at Winnipeg, in Manitoba. The Board is a body corporate, having the capacity to contract and to sue and to be sued in the name of the Board. Amongst other duties the Board is to fix a price to be paid to the producers for the wheat delivered to the Board as provided by the Act, subject to the approval of the Governor in Council; to sell and dispose of from time to time all wheat which the Board may acquire for such price as it may consider reasonable, with the object of promoting the sale and use of Canadian wheat in world markets ; to sell and dispose of stocks of wheat and contracts for the delivery of wheat from Canadian Co-operative Wheat Producers Limited and the wheat represented by such contracts as may be reasonably possible, having regard to economic and other conditions. Under s. 9 of the Act, except as otherwise provided in it, every elevator is to be operated for and on behalf of the Board and no person other than an agent of the Board is to operate any elevator, unless the elevator has been excepted by order of the Board from the operation of the Act ; and any elevator not excepted from the operation of the Act, operated otherwise than for the Board or by an agent of the Board, shall be deemed operated in contravention

of the Act. A breach of this section makes the offender subject to a penalty. The provisions of s. 9, however, are not to come into force until proclaimed by the Governor in Council, but the principal provisions of the Act came into force on the day the Act was assented to, namely, July 5, 1935.

2. ALBERTA.

Acts passed—89 : Public and General—84 ; Local and Private—5.

The verses which, by Albertine custom, are prefixed to the synopsis of important Acts, prepared by Mr. J. D. Hunt, are on this occasion prophetically topical for the present year.

> We, too, are friends to loyalty. We love
> The King who loves the law, respects his bounds,
> And reigns content within them. Him we serve
> Freely and with delight, who leaves us free.

Trade and Industry.—Trade regulation and debtors relief were much less prominent as subjects of legislation in 1935 than in 1934. Certain amendments were made in existing legislation as to trade and industry, as, for example, by the Dairymen's Act Amendment Act, c. 84, and the Game Act, 1932, Amendment Act, c. 28. A special Act (c. 46) authorized an undertaking to be given to the Canadian Sugar Factory, Ltd., that providing the company erects and operates a factory in conformity with the provisions of the said agreement, and continues the operation of its factory at Raymond, the Government will not, at any time prior to the year 1946, give, grant or render any financial assistance, or any other assistance not given to the Company under the said agreement, to any person, firm or corporation. A partial exemption from taxation for ten years was also promised to the company. By the Quarries Regulation Act, c. 70, the Lieutenant-Governor was given power to make regulations governing the working of quarries. By the Slot Machines Act, c. 14, slot machines are treated as no longer *res in commercio* and no person is to keep or operate any such machine within the Province. A Straw Conservation Act, c. 83, authorizes the declaration of areas as straw conservation areas within which no person is allowed to destroy stacks or piles of straw until the expiration of the fourth year after the year in which the straw was threshed unless authorized so to do by the Field Crops Commissioner. A further Natural Products Marketing Act, c. 39, amends the existing legislation mentioned in our last review. The Public Utilities Act of 1933[1] was further amended and continued by c. 26.

Insurance.—C. 3 contains amendments recommended for adoption by the Association of Superintendents of the Provinces of Canada. The definitions in the Act have been brought into line with the definitions of the Insurance Acts of the other Provinces. Subject to the provision of the Act a licence may be granted to an insurer to carry one or more classes of insurance. Special provisions are inserted as regards automobile insurance. It is to be a condition of a licence that in any action against a licensed insurer or its insured, arising out of a motor vehicle accident, such insurer shall not set up any defence to a claim under a policy issued outside the Province, which might not be set up if such policy were issued in the Province.

[1] Owing to a misprint this Act was referred to in our last review as dated 1932.

Provision is made for special forms of policy, such as garage and sales agencies and non-ownership contracts.

An amendment restricts the benefits of an owner's policy to the owner of an automobile and persons operating it with his consent. An insurer is relieved from liability under an owner's policy or a driver's policy for damage for the death or injury to the insured and other specified relatives of the insured.

The insured shall not use or drive the automobile: (*a*) whilst under the influence of intoxicating liquors, (*b*) whilst he is not for the time being qualified and authorized by law to drive, (*c*) for any illicit or prohibited trade or transportation or (*d*) in any race or speed test.

Auction Sales.—The Auction Sales of Chattels Act, c. 11, requires a statement in writing to be lodged with an auctioneer prior to any sale of goods by auction setting out whether or not any of the goods are subject to any mortgage, charge, lien or encumbrance and if so the full particulars of same. No auctioneer may offer for sale by auction any goods unless he has in his possession a statement delivered to him pursuant to the Act, and every auctioneer must retain in his possession, for two years, every statement relating to any goods which he has offered for sale by auction, produce the same on demand to any person having an interest and keep a record of every auction sale held by him.

Farmers' Protection.—The protection of farmers who have suffered in the depression is sought by an Agricultural Industry Stabilization Act, c. 25. As against landlords, mortgagees and execution creditors the resident farmer is to be permitted to retain various amounts such as: (*a*) An amount sufficient to provide all necessary food, clothing, medical and hospital services for the next twelve months; (*b*) an amount sufficient to provide for the payment of sums necessarily borrowed or debts necessarily incurred by him in growing and harvesting his crop, or for the purpose of feeding and preparing his live stock for market; (*c*) an amount sufficient to pay any current taxes; (*d*) an amount sufficient to provide for the necessary cash outlays for the ordinary farming operations of the farmer during the next ensuing twelve months.

In any case to which the section applies no seizure is to be made of any of the goods of a resident farmer nor any distress for rent levied unless a certificate has been obtained from the Debt Adjustment Board that he is possessed of money, goods and chattels in excess of that which he is entitled to retain by virtue of the section.

No order is to be made by the Debt Adjustment Board for the disposal of the property of any person who is a resident farmer which has the effect of depriving him of any of the property which he is entitled to retain.

Moreover, any resident farmer who is in financial difficulties may apply to the Debt Adjustment Board for assistance in effecting adjustments of the liabilities and the Board is given certain powers of assistance. The Lieutenant-Governor is also authorized to appoint an official to negotiate with creditors with a view to effecting an adjustment of indebtedness in the Province as a whole or any areas thereof. The Act contains further provisions for the same general object and is to continue in force till May 1, 1938.

Among Acts designed to promote social welfare may be mentioned the Industrial Standards Act and the Alberta Health Insurance Act.

Industrial Standards.—By c. 47 a new effort is made to secure fair

wages and hours and the Lieutenant-Governor is authorized to appoint Industrial Standard Officers to assist in the carrying out of the Act and of the regulations and schedules.

Under the Act the Minister may upon the petition of the representatives of employees or employers, in any industry, convene a conference of employees and employers for the purpose of considering the condition of labour and the practices in such industry and for negotiating standards of uniform rates or wages and hours and days of labour in each industry in any one or more zone.

The employees and employers may agree upon a schedule of wages and of hours of labour for all or any class of employees in such industry within such zone or zones.

If, in the opinion of the Minister, a schedule of wages and of hours of labour for any industry is agreed upon in writing, he may approve thereof and the Lieutenant-Governor in Council may declare such schedule to be in force for a period not exceeding twelve months. In every zone the employees and employers engaged in the industry to which any schedule applies may establish a Board of not more than five members to hear complaints and to assist generally in enforcing the schedule.

No employer shall pay to any employee wages less than is prescribed by any schedule nor require or permit any employee to work a greater number of hours in each day or a greater number of days in each week than is prescribed by the schedule.

No employee shall consent to be employed for wages less than he is entitled to by any schedule, nor shall he work a greater number of hours per day nor of days in each week than is prescribed by the schedule.

Health Insurance.—C. 49 provides for the formation of medical districts by a Health Insurance Commission. The Commission creates the district by order, but must be so authorized by the result of the vote at an election held in the prescribed manner. The Act provides that upon the formation of a medical district every municipality or improvement district or part of such included in the district shall take a census and ascertain who are residents, income earners or likely to become such, and the secretary of each municipality or district or part thereof shall make an alphabetical index and shall keep same up to date.

The payments to be made by residents under the Act are fixed roughly on a scale proportioned to capacity.

Subject to the other provisions of the Act every resident of a medical district is entitled to receive without charge the following benefits: (*a*) any necessary hospitalization in a public ward; (*b*) any necessary nursing services; (*c*) any necessary medical and surgical attention, advice and treatment; (*d*) the benefit of such laboratory services such as X-ray and biochemical services and such hospital facilities as may be requisite for the purpose of diagnosis; (*f*) all such drugs, medical and surgical supplies and appliances as may be prescribed by the medical practitioner under whose care he is for the time being.

Any resident in need of any of the benefits may consult any medical practitioner or dentist who carries on practice in the medical district. He will be paid by the Commission in accordance with a tariff. The Commission may establish clinics in any medical district for the promotion of public health, as also, in general, all services pertaining to the maintenance of community health and disease prevention.

Local Government.—A number of Acts were passed dealing with Local

Government and Administration. Of these, special mention may be made of the Department of Municipal Affairs Act Amendment Act, c. 64, and the Alberta Municipal Assessment Commission Act, c. 63. Under the first named of these Acts the Minister upon being satisfied that the affairs of a Municipality are being conducted in such a manner that action is necessary in the public interest may give directions to the council and if these are not carried out may dismiss the council or any members thereof or any officers.

In the case of the dismissal of the council or any members thereof the Minister may direct an election of a new council or of members, and in the case of the dismissal of an officer he may appoint another officer in his stead and prescribe the remuneration.

He may upon the dismissal of any council appoint by order an official administrator who shall have all the powers belonging to the council and who shall be paid such remuneration by the municipality as may be fixed by him.

He may at any time appoint a controller of the affairs of the municipality who shall have the supervision of the council or the official administrator in the management of the affairs and business of the municipality, and so long as the appointment of the controller continues no resolution whereby any liability is incurred or any disposition is made of the money of the municipality shall have effect until it has been approved in writing by the controller.

The Municipal Assessment Commission Act supersedes the Alberta Assessment Commission Act which it, however, in great part re-enacts. A Director of Assessments is to be appointed who is to hear appeals from the decisions of various Courts of Revision established under previous statutes and in general to make and control assessments.

The substance of the provisions of the Assessment Commission Act relating to equalized assessments is re-enacted, substituting the Director for the Commission. Provision is made for appeals from the Court of Revision to the Director as to municipal assessments.

There is to be an appeal to the Commission established under the Act from all orders of the Director made upon appeals from assessments or in relation to the equalization of assessments for any municipality and from all assessments made by him.

Criminal Procedure.—An Act respecting Summary Convictions, c. 9, modifies and adds to the powers of justices and police magistrates in certain respects, *e.g.* as to search warrants. Police officers are in certain cases given power to admit to bail in the case of persons taken into custody at night.

The Juvenile Court Act, c. 20, establishes a Juvenile Court for the Province. The Supreme Court and District Court judges are to be *ex officio* judges thereof, but the Lieutenant-Governor may also appoint judges of the court to hold office during pleasure. Furthermore, it is provided that any police magistrate or justice of the peace may on the written request of the Attorney-General or of the Superintendent of Child Welfare act as judge of the Juvenile Court for the trial of any case specified in the said request and while so acting shall have all the powers of a Juvenile Court. The Juvenile Court shall have jurisdiction to hear and determine any charge for any offence against any statute of the Province preferred against any child who comes within the definition of " child " in the Juvenile Delinquents Act, 1929.

Every clerk shall at the close of each sitting of the court at the end of the week, as required by the Superintendent of Child Welfare, forward to him a full report of the cases brought before the court, the disposition or order made in each case, the parentage and religion of each delinquent and such other information as may be required.

Every agent of a Children's Aid Society shall be a probation officer for juvenile delinquents within the district in which such society is situate, and every inspector under the Child Welfare Act shall be a probation officer with power to act at any point within the Province.

Every city or town of 5,000 population or over shall appoint and pay one person or more to be probation officers and notice of such appointment shall be given to the Superintendent of Child Welfare.

The Act contains further elaborate provisions as to probation officers and homes for young delinquents.

The Juvenile Courts Act (R.S., c. 77) is repealed.

Various Acts were passed touching upon the general law and procedure.

Libel and Slander.—By c. 23 it was provided that in an action for libel contained in a newspaper the defendant may plead in mitigation of damages that the libel was inserted without actual malice and without gross negligence and that before the commencement of the action or at the earliest opportunity afforded he inserted in such newspaper a full apology, or if the newspaper is one ordinarily published at intervals exceeding a week that he offered to publish the apology in any newspaper to be selected by the plaintiff.

Limitation of Actions.—C. 8 specifies periods of limitation, the most important of those mentioned being as follows: Actions for penalties imposed by any statute, within one year after the cause of action arose. Actions of defamation, whether libel or slander, within two years of the publication of the libel or speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of such damage. Action for trespass to the person, assault or for false imprisonment or for malicious prosecution or for seduction, within two years after the cause of action arose. Action for trespass or injury to real property or chattels, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose. Action for the recovery of money, within six years after the cause of action arose. Actions grounded on fraudulent misrepresentations, within six years from the discovery of the fraud. Actions grounded on accident or mistake, within six years from the discovery of the cause of action. Actions on a judgment or order for the payment of money, within ten years after the cause of action therein arose. Any other action not in this Act, or any other Act, specifically provided for, within six years after the cause of action arose.

The Act deals further with acknowledgments and part payment, charges on land and legacies, the right to take proceedings as to land, landlord and tenant, acknowledgment of title, etc., etc.

Reports of Judicial Proceedings.—C. 22 regulates the publication of judicial proceedings in matrimonial matters on the lines of the English Act of 1926 (16 & 17 Geo. V., c. 61). The proprietor, the editor and the publisher are each guilty of an offence in respect of publication in newspapers printed and published in the Province. If the offence consists in publication in the Province of matter contained in a newspaper, etc., printed without the Province which publishes continually or repeatedly

articles which are obscene, immoral or otherwise injurious to public morals, each person who within the Province receives any such newspaper, and is engaged in the public distribution thereof, shall be guilty of an offence.

Reciprocal Enforcement of Judgments.—By c. 7 the Lieutenant-Governor is given power to make reciprocal the enforcement of judgments obtained in any part of the Empire or in any foreign country if satisfied that reciprocal provision has been or will be made in such country for the enforcement of provincial judgments.

Distress.—Under c. 12 certain goods are excepted from landlords' distress. Such are (*a*) beds in ordinary use; (*b*) necessary and ordinary wearing apparel; (*c*) one cook stove with pipes and furnishings, one other heating stove with pipes; two towels, one washbasin, one kitchen table, one tea kettle, one teapot, one saucepan, one frying pan and for each member of the family the following: one chair, one cup and saucer, one plate, one knife, one fork and one spoon; (*d*) fuel, meat, fish, flour and vegetables for the debtor and his family for thirty days; (*e*) tools or agricultural implements used by the debtor in the practice of his trade or occupation to the value of $300; (*f*) one axe, one saw.

Solemnization of Marriage.—C. 51 amends the Act of 1925 [1] but does not appear seriously to depart from its prescriptions. It is provided that marriage licences will not be issued nor marriages solemnized unless each of the parties has made an affidavit setting out that he (or she) is not then infected with any venereal disease or with tuberculosis. No special privileges are given to the episcopal church in Alberta and banns may be published in any church or other place of public worship being a place not ordinarily used for secular purposes. They must be so published at least three times by a Minister officiating at a public religious service, in a church or other place of public worship being a place which is not ordinarily used for secular purposes, of the religious denomination of which each of the parties to the intended marriage is a communicant, member or adherent situate in the municipality, parish or pastoral within which each of the parties has residence for the space of fifteen days immediately preceding the first publication of the banns.

In case the parties to the intended marriage do not reside in the municipality, parish or pastoral then the banns shall be published in each municipality, parish or pastoral in which each party resides.

No marriage shall be solemnized upon the publication of the banns, but within sixty days after the second Sunday upon which the banns were published. The Registrar-General may, however, authorize a marriage licence issuer to endorse upon the licence an authorization for the solemnization of the marriage at any time after the issuance of the licence.

Before issuing any marriage licence for the marriage of minors a licence issuer shall send by mail a notice in writing to the parents or parent, or guardian of any party to the intended marriage who is under the age of twenty-one years, setting out the fact that a marriage licence has been applied for and the name and address of each party to the intended marriage. A licence will not be issued to any person under the age of twenty-one years unless the applicant produces the written consent of his or her parents or parent, or guardian, where such applicant is under the age of eighteen years, or the written consent of his parent if the applicant is over the age of eighteen years and under the age of twenty-one years.

[1] For the Act of 1925 see *Journ. Comp. Leg.*, 3rd Series, vol. ix, pt. ii, p. 51.

Control of Soil Drifting.—In conclusion may be remarked a curious and interesting Act which seeks to prevent the drifting of soil. This Act, c. 40, provides that the occupier of land which is being summer fallowed shall till the same so as to prevent soil on any part of the summer fallowed land from drifting, so as to cause damage to adjacent land and property. The occupier shall be deemed to have discharged his duty if each quarter section upon which land is being summer fallowed is cultivated according to any of the methods set out in the Act, *e.g.* (*a*) By summer fallowing and cropping the land in alternate strips. (*b*) By surrounding all summer fallowed land with a strip of land of at least thirty rods in width, cultivated in three strips parallel to the edge of the summer fallow. (*c*) By surrounding all the summer fallowed land with a strip of land of at least thirty rods in width parallel to the edge of the summer fallow. (*d*) By seeding upon the land a covering crop of grain sown not later than the tenth day of August. (*e*) By maintaining a strip of natural or planted tree growth at least three rods in width within forty rods of and along the whole of each boundary of the property.

Subject to the other provisions of this section, the occupier of any land in respect of which the duty imposed upon the occupier of land by this Act is not discharged shall be liable to the owner of land and to the owner of crops which are damaged by soil drifting, except only when the land upon which the damage occurs or any part thereof is being summer fallowed and the duty imposed upon the occupier by this Act in respect of that land is not discharged.

It shall be deemed to be a condition of every letting, whether oral or in writing, and every agreement for sale of any land that the tenant or purchaser shall in summer fallowing the land comply with the requirements of this Act, and if upon the breach of that condition soil drifting occurs upon the land the lessor or the vendor, as the case may be, shall be entitled to declare forthwith the tenancy or agreement for sale at an end and to recover the possession of the land comprised therein.

3. BRITISH COLUMBIA.

[*Contributed by* H. Alan Maclean, Esq.]

Acts passed—93: Public—91; Private—2.

Adoption.—C. 2 amends and consolidates the statute dealing with this matter. Several new features include the requirement that the child to be adopted must have been in the custody of the petitioner for a year prior to the making of the adoption order, and the provision making adoption papers inaccessible to search in the court registry except upon the order of a judge.

Apprenticeship.—A new Act deals with this matter (c. 3) and provides a standard form of apprenticeship contract, and makes all employers of apprentices subject to general supervision by an Inspector of Apprenticeship.

Bills of Sale.—The Bills of Sale Act is amended by c. 7 to provide that renewals of registrations of bills of sale are to be made every three years. Applications for renewal of registration are to be accompanied by an affidavit setting forth the amount due under the bill of sale at time of renewal registration.

Companies.—C. 12 involves an important change in the law which has prevailed for a long time with respect to "non-personal liability" or

"specially limited" mining companies. The former law was that a member of such a company was not "personally liable for any such amount (*i.e.* the amount unpaid on his shares) or for any debt contracted or payable by the company." In the case of any other company a member is personally liable for the amount unpaid. Under the amendment the member will be liable for what he agrees to pay. If then a person buys a $1 share (sold to him at a discount) for 50 cents and agrees to pay 50 cents, but only pays in cash 25 cents, he shall be liable for 25 cents.

Distress for Rent.—C. 19 provides that distress shall not be levied on goods other than those of the tenant except in case where title is claimed by virtue of execution against the tenant or where title is derived by way of purchase, gift, transfer from the tenant, whether absolute or in trust or by way of mortgage or otherwise. Goods of the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant are not exempted however, nor are the goods of any other relative of the tenant who lives on the premises.

Divorce.—C. 20 repeals the section of the Act dealing with divorce and matrimonial causes which provided in effect that judgments could be enforced only by way of execution. An amendment to the rules of court makes judgments given in divorce matters enforceable in the same way as any judgment of the Supreme Court.

Game.—The Game Act is amended and consolidated by c. 28.

Highways.—C. 34 amends the Highway Act and provides for classification, licensing and supervision of public freight and passenger vehicles.

Insurance.—C. 38 amends the Insurance Act and brings into effect amendments formulated at a meeting of the insurance officials of most of the Provinces of Canada. The amendments have been adopted by other Provinces. S. 11 clarifies the law with regard to innocent misrepresentations made by an assured. Innocent misrepresentations will not now avoid the policy. S. 30 provides that insurance money shall be payable in the Province for which the insured was domiciled at death. The adoption of this provision by the various Provinces will doubtless serve to clear up difficulties which have arisen in the past with regard to the situs of the insurance contract.

Mines.—C. 46 amends and consolidates enactments regulating the working of metalliferous mines.

Mortgages.—C. 49 amends the Mortgagors and Purchasers Relief Act, 1934. This Act requires a mortgagee to obtain leave of a judge before proceeding to enforce his mortgage. Formerly consent was not required when default had been made by mortgagor in payment of insurance or taxes. The amendment will require the mortgagee wishing to enforce his mortgage by reason of default in payment of insurance or taxes to obtain leave of the court unless the taxes or insurance have been in arrears for one year or more.

Motor Vehicles.—C. 50 amends and consolidates enactments respecting the operation of motor vehicles.

Municipalities.—The Municipal Act is amended by c. 51. S. 12 provides for the making of returns by municipalities to the Inspector of Municipalities with respect to municipal sinking funds. On discovery of any maladministration of municipal sinking funds the Minister of Municipalities may take over the administration of the fund. S. 31 empowers the Lieutenant-Governor in Council by Order in Council to add to the powers given to the municipality by the Municipal Act.

S. 33 provides that no action to enforce payment of any municipal bond or debenture shall be taken against a municipality for which a Commissioner has been appointed except by consent of the Attorney-General.

Nursing.—C. 53 re-enacts the statute dealing with the practice of nursing.

Optometry.—C. 55 amends the Optometry Act and gives the Board of Examiners constituted under the Act power to regulate advertising by optometrists.

Pharmacy.—C. 56 re-enacts the statute regulating the practice of pharmacy, and the sale of poisons. The new statute prohibits the sale of certain substances by persons other than pharmaceutical chemists, and prohibits pharmaceutical chemists from selling certain poisons and other substances other than on prescription of a medical practitioner. The Act regulates generally the practice of pharmacy in the Province.

Plant Protection.—C. 57 provides for inspection of plants and nursery stock, and empowers the Lieutenant-Governor in Council to make regulations to prevent the spread of pests and diseases destructive to vegetation.

Securities.—There were only two material changes made in the Securities Act by c. 68. The power to suspend, cancel and reinstate registrations under the Act which was previously vested in the Attorney-General was extended to the Superintendent of Brokers in certain specific instances with an appeal to the Attorney-General. It was also provided that every information under the Act must be laid within twelve months from the time when the matter of the information arose.

Seed-growers' Protection.—C. 69 empowers the Lieutenant-Governor in Council on petition of a majority of seed-growers within any area to constitute the area a seed-control area. Regulations may then be made for the control of seed-growing within the area to the end that cross pollination may as far as possible be eliminated and that the standard of seeds grown in the area be maintained.

Summary Convictions.—C. 75 amends the Summary Convictions Act to enable magistrates to suspend sentence in the same manner as permitted under s. 1083 of the Criminal Code of Canada.

Truck.—The Truck Act is amended by c. 82 to prohibit an employer from making deductions from the wages of his employee for the purpose of applying the same on the purchase of shares of any corporation.

4. MANITOBA.

[*Contributed by* WILSON E. MCLEAN, ESQ., *Legislative Counsel.*]

At the 1935 session of the Legislature 113 Bills were introduced, of which number 104 were passed. There were 58 public general statutes, 38 general or local municipal Bills, and 8 private Bills. The first four of the Acts mentioned are revisions.

Crown Attorneys.—C. 8 deals with the appointment of Crown attorneys for the various judicial districts of the Province and defines their duties.

Dairy Produce.—C. 10 provides for the governmental control of the quality of dairy products in the Province.

Engineering Profession.—C. 13 provides for a professional engineering society and the setting up of a board within the profession for the purpose of regulating the admission of persons to the society. It also contains a provision prohibiting persons practising engineering without being a member of the society.

Fatal Accidents.—C. 18 reproduces a previous Manitoba Act and in addition extends the definition of " child " to include an adopted child and an illegitimate child. It also provides that in assessing damages sums payable in respect to insurance and future premiums are not to be taken into account. It also permits payment into court without the specifying of the respective shares. It also contains a provision for the disposition of several actions where there are rival claimants.

Administration of Estates.—In the case of one of the judicial districts in which the official administrator had died a new Act was passed providing for an *en bloc* transfer to a trust company as official administrator of all the estates being administered upon by the deceased administrator without the necessity in each individual case of an application to the Surrogate Court for administration *de bonis non.*

Land Drainage Arrangement.—C. 23 provides for the setting up of a commission to adjust and report upon the liability of persons in drainage district for drainage levies. Upon the presentation of the report provision is made for the handing over the whole matter of the imposition and collection of drainage levies to the municipalities who also assume responsibility in future for maintenance and the construction of drains in place of the Provincial Government.

Pollution of Waters Prevention.—C. 34 provides for the setting up of a commission to control and prevent pollution of waters in the Province. This Act also contains a part whereby any area within the Province may become incorporated as a drainage district and set up and operate a sewage disposal system.

Slot Machines.—C. 43 prevents slot machines in which a slug or money is inserted, and which returns money or a prize from being the subject of ownership in the Province. Provision is made for the seizure and confiscation of any such machines found.

Taxicabs.—C. 51 provides for the regulation of wages, hours and conditions of employment in the taxicab industry, and the rates to be charged by taxi operators in the area of Greater Winnipeg.

Trade Practices Inquiry.—C. 53 sets up machinery for a board of inquiry in case of any complaint of unfair trade practices. Upon the report of a board being made authority is given to print and distribute the same. The only sanction is the publicity.

Wolf Bounty.—C. 58 provides a bounty on wolves under certain circumstances.

Among the statutes amended were the following:

Companies.—By c. 5 the principal Act is amended to require a company to obtain the consent of the holders of its securities to changes in the capital structure involving an alteration in the control of the management; to enable any company to avail itself of the provisions relating to compromises or arrangements; to transfer the calling of company meetings in certain cases to the court; to permit a company to be wound up on the same grounds as a company may be voluntarily wound up under the Dominion legislation; and to extend the power of the Attorney-General to order the investigation of companies.

Crown Lands and Real Property.—The principal Acts are amended by cc. 9 and 38 in an important particular, namely, to provide that when a patent to Crown land issues it must be filed by the Minister, at the time of issue, in the appropriate land titles office, and that a Torrens title do issue merely upon the payment of a nominal fee.

Debt Adjustment.—The Act of 1932 is amended by c. 11 in minor particulars to clarify the jurisdiction of the commissioner.

Evidence.—The principal Act is amended by c. 15 in certain particulars, the most important of which was that dealing with questions which may be asked witnesses with respect to adultery and as to the competency of witnesses in proceedings in which adultery is involved.

Garnishment.—By c. 9 the principal Act is amended to give the court authority to deprive a married man of his exemptions where the action was one for maintenance or support of a wife or child.

Highway Traffic.—The principal Act is amended by c. 20 in a number of particulars. The most important amendment is a provision prohibiting the driving of automobiles at more than thirty miles an hour, and trucks at more than twenty-five miles, in cities, towns and villages and upon certain designated highways. Also a gratuitous passenger is now deprived of the right of recovery of damages against his driver unless he can prove gross negligence. Police magistrates are given jurisdiction up to $100 in claims for damages arising out of automobile accidents.

Insurance.—The Uniform Insurance Parts are extensively amended by c. 22, but with few minor exceptions these are in accord with the recommendations of the Conference of Superintendents and are uniform throughout Canada with the exception of Quebec.

Law of Property.—C. 24 permits a vendor or purchaser to make a summary application to the court in respect to any requisition, objection or compensation.

Marriage.—The principal Act is specifically amended by c. 26 to give the court of King's Bench jurisdiction to declare marriages null and void where they were entered into by minors without the necessary parental consent.

Married Women's Property.—An addition was made by c. 27 to the Married Women's Property Act to give the husband the same right for the protection of his property against the wife as she has against him. The summary procedure provided in the English Act for the settlement of disputes between husband and wife respecting their property was also adopted.

Partnership.—An addition is made by c. 32 to prevent a registration of the same partnership name by different applicants.

Securities.—An amendment by c. 41 provides that mining syndicates may be registered with a limitation of the liability of investors. Also house to house canvassing for the sale of securities is prohibited.

Trustee.—The principal Act is amended by c. 54 with the object of further cutting down the effect of the maxim *actio personalis moratur cum persona*. This is in line with the present English statutory provisions.

Wills.—An amendment by c. 52 makes a provision against the lapse of a gift to a member of a class of beneficiaries upon the death of a member of that class.

Local Government.—In respect to municipal matters the Municipal and Public Utility Board Act is extended by cc. 30 and 31 to empower the board to deal with matters of finance in supervised suburban municipalities.

Assessment.—An amendment by c. 60, amongst other things, provides for exemption of hospitals from municipal taxation.

5. NEW BRUNSWICK.

[It is hoped to publish this Summary in the next *Review*.]

6. NOVA SCOTIA.

[*Contributed by* F. F. Mathers, Esq., K.C., *Deputy Attorney-General.*]

Acts passed—120 : Public—47 ; Local—56 ; Private—17.

Supervision of Municipal Affairs.—The Municipal Affairs (Supervision) Act (c. 5) creates a Department of Municipal Affairs to be presided over by the Minister of Municipal Affairs. The most important changes in the existing law are that municipalities desiring to borrow money on capital account for, broadly speaking, ordinary municipal purposes properly chargeable to capital will not be obliged to apply to the Legislature for a special borrowing Act, but will be able to borrow the money and issue debentures with the approval of the Minister of Municipal Affairs ; the Department is given power to examine, audit and inspect municipal affairs, and to make regulations governing methods of bookkeeping, accounting, recording and auditing, to be used in any Municipality ; certain functions that had been exercised by the Governor in Council, for example respecting the approving of by-laws of a municipality, are transferred to the Minister of Municipal Affairs, and certain functions of the Provincial Secretary respecting municipal matters, for example statistics to be furnished by municipalities, are transferred to the Minister of Municipal Affairs. The Act came into force on September 1, 1936.

Incorporation of Companies.—An Act to amend and consolidate the Nova Scotia Companies Act (c. 6) is for the purpose of bringing the company law of the Province more into accord with the English Companies Act and the recent Dominion Companies Act.

Co-operative Associations.—Provision is made by c. 7 for the incorporation under the Nova Scotia Companies Act, under certain restrictions and also with certain privileges, of co-operative associations.

Civil Service Act.—C. 8 is similar to the Civil Service Act of other Provinces.

Hours of Labour.—A Board of Adjustment is constituted by the Limitation of Hours of Labour Act (c. 12). The Act applies with respect to mines and quarries and to manufacturing industries and to the building industry. The Board is given power to determine the number of hours per day or per week during which a person employed may work, and various other matters mentioned in s. 4.

The Act is to come into force on proclamation by the Governor in Council, but has not been brought into force.

Tourist Traffic.—Under c. 13, the Minister of Highways is given general supervision over all matters relating to the development and improvement of tourist traffic in the Province, and the Governor in Council is empowered to make regulations for or in relation to the licensing and regulating of tourist committees, tourist councils, information bureaus or any person or group of persons engaged in the promotion of tourist traffic in the Province, and in relation to publicity issued by any such committees, councils, bureaus, person or group.

Married Women.—The Married Women's Property Act was amended (c. 33) by providing that a married man shall have against his wife the same civil remedies for the protection and security of his property as if his wife were a *feme-sole*. A married woman had already the same civil remedies for the protection and security of her separate property against all persons including her husband as if the property belonged to her as a

feme-sole, and the amendment merely re-enacts the existing law in that respect. The amendment also provides, in effect, that a husband shall not be liable for any tort committed by his wife after the marriage; the law in Nova Scotia still is that, with respect to torts committed by a wife before the marriage, the husband is liable, but only to the extent of property he has acquired or become entitled to from or through her.

Prevention of Frauds in Connexion with the Sale of Securities.—The principal Act was amended (c. 42), the most important amendment being that any registration of a broker or salesman may be reduced to a temporary registration or suspended or cancelled for any reason which the Attorney-General may deem sufficient.

7. ONTARIO.

[It is hoped to publish this Summary in the next *Review*.]

8. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Public Acts—19; Private Acts—10; Total—29.

Insurance.—C. 9 adopts and enacts certain amendments to the general Insurance Act passed in 1933. The amendments so passed were prepared and recommended by the Association of Superintendents of Insurance of the Provinces of Canada at a Conference held in September 1934. Adoption of uniform statutes and amendments is designed to secure uniformity of provincial legislation throughout Canada on the various branches of insurance.

Lightning Rods.—C. 10 requires the licensing by the Provincial Electrical Inspector of persons engaged in selling or installing material or apparatus to be used for the protection of buildings or structures from damage by lightning and compliance with public regulations establishing standards and prescribing the kind of materials and apparatus which may be used for the purpose.

Public Library.—C. 14 authorizes the appointment of a Public Library Commission to supervise the expenditure of public money for libraries and to promote and superintend library facilities.

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Public Acts—110; Private Acts—69; Total—179.

Island of Orleans.—By c. 8 the island is placed under the supervision of the Tourist Traffic Council, which is empowered to look after its embellishment and approve of the construction and operation of hotels and eating houses, and order, if found expedient, the demolition of oil-distributing stations.

Aid to Unemployed.—By c. 9 municipalities are authorized to assist the unemployed out of their general funds, or by loans effected by the issue of debentures, for a term not exceeding thirty years at no more than 5 per cent. interest. The loans must be authorized by a quorum of the council, approved by the municipal commission and sanctioned by the Provincial Cabinet.

Public Service Commission.—C. 13 extends its powers, particularly as regards the right to license taxis on routes where there is no autobus service, and petrol stations.

Corporation Tax.—C. 15 amends the definition of paid-up capital, which is subject to a tax of one per cent., so as to include its surplus and reserve fund (except reserve for wear and tear) all sums or credits advanced or loaned to the incorporated company by any other company, except a bank, and all sums borrowed by it through the issue of bonds, debenture stock, debentures, mortgages or other securities, subject to the opinion of the Provincial Treasurer regarding the value of goodwill. The tax on profits is 2½ per cent. when the same are made in the Province, and on such sums which the Provincial Treasurer may consider as extravagant salaries paid to the directors of the company.

Security Transfer Tax Act.—By c. 16 Revised Statutes 1925, c. 27 and the amending Acts, including 22 Geo. V, c. 24 (enacted February 19, 1932), are again amended. The word " security " now means and includes (*a*) any share of capital stock or of debenture stock or any bond or any debenture, issued by any association, company, corporation or foreign government (these last words designating all governments other than those of the Dominion of Canada or of the Provinces thereof) ; (*b*) any share of any undivided interest in a group of securities, such as above mentioned, held in trust or in ownership by a person, firm or corporation, or of any participating interest in the operation or profits of any association, company or corporation, such share being evidenced by a certificate or other instrument of title. In order to provide for the exigencies of the public service, a tax is levied upon every change of ownership of a security consequent upon the transfer thereof made or carried into effect in the Province ; upon every order given in the Province, to be executed outside, for the transfer of a security ; upon every delivery in the Province of a security payable or transferable to bearer, wherever transferred ; upon every payment made in the Province in execution of an extra-provincial transfer ; upon every conversion in the Province of a security into one which is payable or transferable to bearer ; upon every transfer or delivery of securities in the Province, effected for cancellation or exchange purposes except by the same company to the same holder.

The tax is not imposed upon the following : the allotment by any association, company or corporation of its shares, in order to effect the issue thereof, to one or more designated persons, and not to his or their nominees ; the assignment of the right to receive when issued the unallotted shares in any association, company or corporation ; the first change of ownership resulting from the transfer of a bond, debenture or share of debenture-stock, made by an association, a company or a corporation, either directly or through an authorized agent ; the transfer or assignment of a share or debenture-stock, made *bona fide* for the security of a loan (with a proviso) ; the retransfer or assignment by the lender to the borrower of the identical security, provided the lender has not become the unconditional owner thereof ; the transmission, owing to death, of a security.

Succession Duties.—By c. 17 death duties are increased. So, the untaxable estates are those which exceed $10,000 instead of $25,000, as heretofore. The tax is payable on the whole estate, with an additional tax on the sum payable to a single person. An exemption of $10,000 is allowed for the surviving consort, and $1,000 for each child.

Forests.—By c. 22 all persons carrying on forest operations for the making of pulp or paper with wood taken from licensed lands must observe the regulations which the Provincial Cabinet is empowered to make requiring the deposit of contracts, limiting the cut, protecting the workmen, ascertaining the quantity of wood cut on the public domain, etc. Stumpage dues may be increased if the holder does not observe the regulations.

Watercourses.—By c. 23 the Quebec Streams Commission is authorized to exploit unconceded water powers, or to acquire by agreement and to operate any privately owned water powers. Future alienations or leases to privately owned corporations of power sites having over 500 h.p. can only be made by act of the Legislature.

Electricity Commission.—C. 24 empowers the Cabinet to appoint a commission composed of three members, which may give the necessary orders respecting the quality of the service, the equipment, apparatus, means of protection, extension of the works or system, reports to be made, rules, conditions and practices affecting the rates or charges or connected therewith. It also has jurisdiction in case of disagreement as to the use of roadways, and similar questions, such as questions arising whenever a public service desires to increase its system, in all contestations arising between a public service and a municipality, or in all complaints by a municipality against a municipality : it may arbitrate between the two. After February 18, 1932, the approval of the Commission is required for the construction of any line, plant, network or system, or for the suspension or discontinuance of the operations of a public service. The Commission determines the rates and charges of public services, in the interest of the consumer as well as in that of the public service and of the investors therein. Its consent is required for the sale of a public service to another or the merger of public service ; it supervises the capitalization of a public service, and makes an annual report to the Minister of Lands and Forests.

Agricultural Credit.—By c. 25 (amending 21 Geo. V, c. 38, s. 11) the Government shall pay, during the period of a loan, the difference, not exceeding 3 per cent., between the annual interest of 3 per cent. and that charged by the Board appointed under the Act to the farmers of the Province, on the capital of loans made or which will be made to them under the Canadian Farm Loan Act (Revised Statutes of Canada, 1927, c. 66).

Agricultural Products.—" Agricultural products," within the meaning of c. 30, signify any produce of animal or vegetable origin, with the exception of tinned foods and aquatic animals. The Cabinet is empowered to designate the products to which the Act applies, and to regulate their grading, packing, marking, inspection, sale, storage, exhibition and transportation. The Minister of Agriculture may appoint inspectors or other agents to assure and supervise the carrying out of the provisions of the Act, and provide for their remuneration. In the performance of their duties such inspectors or agents may enter, during business hours, any premises where agricultural products are kept or prepared for sale, or exposed or put up for sale ; stop in transit any shipment of agricultural products ; inspect and take free samples of the same ; seize and confiscate any agricultural product which does not meet the requirements of the Act. The statements contained in any minute drawn up by an inspector or agent shall be presumed to be truthful, subject to proof to the contrary.

No suit shall lie by reason of the carrying on of any measure prescribed by the Act, except in the case of malice or of bad faith. The inspector or agent shall be obliged to show, when required, a certificate signed by the Minister of Agriculture, after which it is forbidden to hinder him in the exercise of his duties, or to deceive him by false declarations. Confusing marks on products may be forbidden. Violation of the Act makes one liable to a fine not exceeding $100 and costs, and failing payment thereof, imprisonment for a maximum of thirty days. In the case of a corporation the fine may be increased to $500, and the court may in the event of non-payment thereof order that it will be paid by directors, officers or employees whom it designates, and who may be imprisoned for not more than thirty days.

Animal Health Protection.—By c. 31 the Minister of Agriculture directs the sanitation of herds and stables, and enters into agreements with the farmers who apply therefor. The Cabinet may designate the diseases which shall be the object of such agreements and licences and fix the conditions thereof; it may regulate the transportation, sale or exchange of sick animals or those suspected of disease, as well as the transportation, destruction or burial of the bodies.

Bees.—By c. 32 the Bee Act (R. S., c. 71) is amended so as to prohibit the sale or exchange of a queen-bee without a certificate of her health.

Colonization.—Colonization is dealt with in six Acts (cc. 34 to 39). C. 34, amending the Colonization, Game and Fisheries Act (R. S., c. 74), provides for the classification of property. C. 35 is an Act to promote colonization and the return to the land, in order to deal with the problems arising from unemployment, to induce farmers' sons to remain farmers, and to diminish the disparity in numbers between urban and the rural population. The Cabinet may, on the recommendation of the Minister of Colonization, pass regulations to grant subsidies to colonization societies, farmers who establish their sons, sons-in-law or adopted children on land not then used in farming, British subjects who wish to settle on such land and are deemed fit to do so, settlers starting, to assist them in the construction of a house and stable, and bachelors who have secured employment with farmers; to effect loans to British subjects settling, as aforesaid, for the purchase of rolling stock (with a maximum amount fixed in each case). The Cabinet may also lend money to improve and develop the regions where colonists settle, by making roads, drying or draining land, etc.; aid, encourage and maintain the settlers, pay their transportation costs when needed, create colonization centres, erect schools, give grain seed, etc. The Cabinet may also authorize the Minister to acquire land and resell it, and generally do all acts in the interest of colonization. C. 36 provides for the acquisition of lands for colonization purposes, by way of expropriation, if necessary. C. 37 authorizes the commission created under the Quebec Forest Operations Commission Act to take the necessary steps to facilitate the sale of the settlers' wood. C. 39 provides for the federation of colonization societies formed under c. 75 of the Revised Statutes of 1925.

Women's Minimum Wage.—By c. 44 the application of the Act (R. S., c. 100 and amendments) is extended to hotels, clubs and restaurants situated in cities and towns with a population of not less than five thousand souls. The penalties are also increased.

Trade and Commerce.—C. 45 creates a department of municipal affairs, trade and commerce, headed by a minister who has charge of (1) super-

vising, throughout the Province, the administration and the carrying out of the laws respecting the municipal system; (2) favouring by all the methods and means which he may deem adequate the advancement and the development of the trade and commerce of the Province; (3) co-operating with the Government of Canada to facilitate the carrying out in the Province of the Acts of the Parliament of Canada relating to trade and commerce so that the trade and commerce of the Province benefit thereby; (4) suggesting practical measures for the rational sale and utilization of the trade and commerce products of the Province, both in Canada and abroad.

Electricity Municipalization.—C. 49 allows any municipal corporation to establish and administer an electricity system, by by-law approved by the affirmative vote in number and value of the elector-proprietors, with a special provision for the vote of joint stock companies. An annual tax may be imposed to meet the interest on the sums expended for the establishment of the system, and create a sinking fund. The use of electricity is optional.

Municipal Administration.—By c. 50 every agreement entered into by a municipality affecting its credit must, to bind such municipality, be approved by the Municipal Commission, except when the expenses incurred must be paid entirely out of the revenues of the then current year. The Commission may authorize a municipality to contract loans, by bond issues, under certain conditions.

Collective Labour Agreements.—By c. 64 the Cabinet may order that a collective labour agreement made between a *bona fide* association of employees and an association of employers, shall also bind all the employers and employees in the same trade, industry and business, carrying on their activities within the territorial jurisdiction determined in said agreement. Claims, under the Act, by an employee, a workmen's association or a joint committee, are prescribed by six months. Every action in repetition, besides the provisions of the Act, shall be decided according to equity and good faith.

Private Hospitals.—By c. 66, they require a licence from the Provincial Treasurer and must keep registers of their patients.

Adoption.—By c. 67, a non-resident of the Province who has been adopted according to the laws of the United Kingdom or any part of the British possessions outside of Quebec, or of any foreign country, shall possess in Quebec the same rights of succession that he would have had in the United Kingdom or the part of the British possessions or in the foreign country in which he was adopted.

Burials.—By c. 68, the body of no person shall be embalmed before the obtaining of a certificate of death signed by a physician, nor may it be buried or cremated until the expiry of twenty-four hours after death.

Companies.—By c. 70, where a compromise or arrangement is proposed between a company and its creditors, or any class of them, a judge of the Superior Court of the district where the company has its head office or chief place of business may order a meeting of the creditors of the company, or of any class of its creditors, as the case may be, in order that the arrangement be sanctioned by three-fourths in value of the creditors. The word " creditors " includes only the holders of scrip interest certificates, of scrip dividend certificates and warrants, and provided the same do not carry any registered claim or registered privilege against the company's property or assets. Notice of the sanction shall be pub-

lished in the *Quebec Official Gazette* by the Provincial Secretary. From and after the date of such publication, the compromise or arrangement shall be binding on the company and the creditors or class of creditors, as the case may be.

Security Frauds Prevention.—By c. 72 a fraudulent act includes any representation that securities will be taken back by the seller or listed on the exchange, except when the same are redeemable or reimbursable by the company which issued them. A representation that the securities will be listed on an exchange is also a fraudulent act. Salesmen must register before thay may act. Brokers must keep certain books of account. A salesman cannot trade in securities for a broker other than the one for whom he is registered, unless with the latter's consent duly filed. No one shall call, personally or by telephone, upon a prospective purchaser at his residence, unless the latter is a close personal friend, business associate or habitual customer. The registrar may order to cease trading in one or several classes of securities.

Insurance.—C. 75 prohibits rebates and twisting in insurance policies. A minor of the full age of fifteen may insure his life in his own favour or in favour of his lawful heirs or of any of them; but he cannot during his minority exercise any option or privilege under his policy or give a valid discharge to the company for any sum paid thereunder without the consent of a family council.

Hospital and Doctors' Bills of Injured Persons.—By c. 85, entitled Charitable Institutions Injured Persons Costs Payment Act, victims of accidents treated in a public charitable institution, or their dependants in case of death, must, when claiming damages from the tortfeasor, include in their claims the account of the institution where they were treated, and of the physicians who treated them. If the institution wishes to be paid direct, it must file its account with the clerk of the Superior Court of the district where the accident happened and give particulars when required; then no settlement of the accident case may be effected without the accounts being paid. In case of common fault, the institution only receives, out of the settlement, an amount proportionate to defendant's fault; but it may sue the victim for the remainder, including the amounts remaining due to the physicians of its staff.

Workmen's Compensation.—By c. 91, recourse under the Act prevents a suit against the employer. If a third party is responsible, the injured party may elect to sue the third party or claim under the Act from its employer.

Damage Actions.—C. 92 declares null any arrangement whereby a mandatory or intermediary is promised a remuneration out of the expected indemnity.

Appearance in Court.—By c. 98, no bankruptcy custodian or trustee, liquidator, curator, collection agent or purchaser of book debts may appear in person before the courts.

Discovery.—By c. 99 the plaintiff, and the party for whom he is claiming, may be examined before plea in actions on bills of exchange or promissory notes. If the party is out of the jurisdiction, his examination will only be allowed if cause therefor be shown, and under the conditions that the judge may fix.

Motor Vehicles.—By c. 104, in the case of a motor vehicle causing loss or damage for which the owner is responsible, such vehicle may be seized before judgment.

10. SASKATCHEWAN.

[*Contributed by* J. P. RUNCIMAN, ESQ., *Legislative Counsel.*]

Acts passed: Public—94; Private—3.

Treasury.—An amendment (No. 6) to the Treasury Department Act provides for the appointment of a Board of Revenue Commissioners with power to (*a*) hear certain appeals respecting the payment of taxes and other moneys due to the Crown; (*b*) take such proceedings as it deems necessary for the recovery of money due to the Crown, on the instructions of any member of the Government; (*c*) cancel, in whole or in part, or adjust any debt due to the Crown; (*d*) investigate available sources of revenue and taxation and make recommendations with respect thereto.

Gasolene Tax.—This tax has been raised from six cents to seven cents per gallon by No. 15.

Income-tax.—By No. 16 the amount of income exempt from taxation has been reduced, in the case of married persons from $1,500 to $1,450 and in the case of other persons from $750 to $700. The surtax of $5 has been eliminated, but on the other hand the tax on all taxable income has been raised by one per cent.

Homesteads.—An amendment (No. 17) to the Provincial Lands Act authorizes the Lieutenant-Governor in Council to make provision for the disposal of provincial lands by homestead entry.

Water Rights.—By No. 19 the diversion or impounding of surface water not flowing in a natural channel or contained in a natural bed and the construction of dams, dykes or other works for the diversion or impounding of such water is prohibited, without the previous authority of the Minister of Natural Resources.

Juries.—By No. 22 in civil actions juries now consist of six persons instead of twelve, and a verdict may be returned by five jurors. The Dominion Parliament, by an amendment to the Criminal Code, has made a similar provision, in so far as Saskatchewan is concerned, with respect to juries in criminal cases.

Teaching Profession.—No. 53 incorporates the Saskatchewan Teachers' Federation and sets forth the powers of the corporation.

Milk Control.—The jurisdiction with respect to the production, supply, distribution and sale of milk, conferred upon the Local Government Board last year, has by No. 58 been withdrawn and placed in the hands of a Milk Control Board consisting of three members, and the same wide powers of control as were exercised by the Local Government Board are given to the Milk Control Board.

Land Utilization.—The Land Utilization Act (No. 62) confers on the Land Utilization Board authority to declare by order that any land, within any area specified by the Lieutenant-Governor in Council, is unsuitable for agricultural purposes. These lands thereupon become public lands and are to be administered in accordance with the directions of the Lieutenant-Governor in Council. Such lands may be leased, set aside for community grazing or exchanged for other lands whether within an area or not.

Liquor.—Amendments (No. 71) to the Liquor Act authorize the issue by the Liquor Board of licences to sell beer by the glass or in open bottles in hotel premises, for consumption in that part of the hotel described in the licence. Provision is also made for the issue of beer licences in respect

of clubs and canteens. The issue of licences in respect of hotels which are situated within summer resorts is left to the discretion of the Liquor Board. During the last ten years liquor has been obtainable only in closed packages from government liquor and beer stores.

Slot Machines.—No. 72 is a short Act, the main provisions of which read as follows:

1. No slot machine shall be capable of ownership or be the subject of property rights, and no court of civil jurisdiction shall recognize or give effect to any alleged ownership of or property rights in any slot machine.

2. No person shall keep or operate a slot machine or permit a slot machine to be kept or operated, upon any premises or in any place occupied by him.

A slot machine is defined as any automatically or mechanically, or automatically and mechanically, operated contrivance or device which, upon or subsequently to the insertion therein or in a slot or receptacle thereof of any money, coin, token, counter, disk, slug or other substance and upon or without the operation of any handle, lever, plunger or other attachment thereof, delivers or returns or purports to deliver or return to any person, either with or without any article of merchandise or any goods, any money, premium, prize, reward, token, counter, disk, slug or anything which is intended to be or capable of being exchanged for money or money's worth or which may be replayed or reinserted in such contrivance or device to set it again in operation.

Coal Mining.—Act No. 73 follows on the report of a commission appointed for the purpose of investigating the coal-mining industry. Wide powers are conferred upon the Minister of Natural Resources with a view to the betterment of the conditions of the industry and the development of the natural resources in relation thereto. The Lieutenant-Governor in Council is empowered to provide for the licensing of the operators of coal mines and to make orders, formulate codes and set up standards of ethics, methods, practices and systems applicable to the industry, so far as they relate to the activities of operators and persons engaged in the industry, with the object of prohibiting competitive prices in their nature detrimental either to the industry, to operators or persons engaged therein, to employees or to the public, and also with the object of establishing standards of prices below which no product of the industry shall be sold and of establishing standards as to hours of employment and wages of any persons or class of persons employed in the industry.

Limitation of Civil Rights.—By No. 89, where land is hereafter sold under an agreement for sale in writing, or mortgaged whether by legal or equitable mortgage for the purpose of securing the purchase price of the land, or where a mortgage is hereafter given as security for the purchase price of land, the vendor's or mortgagee's right to recover the unpaid balance is restricted to the land and to cancellation of the agreement for sale or foreclosure of the mortgage or sale of the property, and no action lies on the covenant for payment contained in the agreement for sale or mortgage.

The issue by the court of an order for sale of mortgaged land by the mortgagee is forbidden unless the order is subject to an upset price or reserve bid fixed by the court.

Every final order of foreclosure of a mortgage on land now operates in full satisfaction of the debt secured by the mortgage, and further new provisions restrict the effect of a judgment hereafter obtained in an action on a personal covenant for payment contained in a mortgage or an agreement for sale of land.

11. NEWFOUNDLAND.

[*Contributed by* BRIAN DUNFIELD, ESQ., K.C., *Secretary for Justice.*]

In 1935 forty-eight Acts were passed, but so many of them are consolidations, or make minor amendments, or involve administrative matters of merely local interest that only the eleven hereinafter referred to are likely to have any interest from the point of view of other countries in the Empire.

A general consolidation of the Statutes of the Colony is long overdue, the last having been made in 1916, but until the revision and modification of statutes which may be expected to take place under the Commission of Government has reached a more advanced stage, consolidation would be premature.

As a matter of interest it may be mentioned that, in the case of Acts likely to affect a substantial number of members of the public, the Commission of Government has to a considerable extent adopted, as a substitute for the public discussion which took place in the former legislature, the practice of publishing the drafts of proposed Acts and inviting correspondence from critics.

Dentistry and Dental Surgery.—Act No. 1 replaces c. 42 of the Consolidated Statutes, 1916, and relates to a Dental Board to govern the dental profession somewhat after the analogy of the Law Society and Medical Acts. It does not introduce any great changes in principle, save that the composition of the Board, which was formerly dominated by medical practitioners rather than by dentists, is altered so that it shall consist entirely of dentists, together with the permanent head of the Department of Public Health and Welfare as a member *ex officio*.

Discovery of Minerals.—The former c. 132 provided that anyone who discovered what appeared to be a deposit of mineral, even though he did not himself stake it, and even though it might be on the land of another, might register himself as the original discoverer; and should it thereafter happen that the deposit was developed and became of value to the country, he was to receive a reward of $1,000 out of the public funds. It has been found that the Act is very little used and the reward seldom or never claimed, and the Statute has been repealed by No. 5 as being of little value.

Public Libraries.—Act No. 7 establishes a Public Library in St. John's, and places it under the management of a voluntary and unpaid Board of from ten to eighteen persons, appointed from time to time by the Governor in Commission.

Export and Sale of Bait Fishes.—It was the policy of the Legislature in the past to prohibit the export of bait fishes of any kind, it having been found that the use of the Newfoundland bait supply was of substantial advantage to the fishermen of other nations who competed in our markets.

The present Act, No. 13, continues for the second year an experimental suspension of this old policy in respect of herring only.

Logging Industry.—The late Legislature in 1932 established a minimum wage for persons engaged in certain branches of the logging industry. Enforcement of this was found for various reasons impossible without damage to the industry, and the provision has been suspended by annual Acts. The present Act, No. 14, continues the suspension for another year.

Codfish Industry.—Act No. 24, which follows to some extent the policy of

Acts of the late Legislature in 1931 and 1933, attempts to enforce a measure of regulation upon the codfish industry. It has been felt for some years that unregulated competition between individuals and small groups has done much to reduce the prices received by the Colony as a whole. It has been felt also that co-operative action is necessary in improving methods of cure and handling.

The Act constitutes a Board of nine members, all first to be nominated by the Governor in Commission. After the first year of operation, six of the members are to be appointed on the recommendation of an Association of Salt Codfish Exporters, constituted under the Act, and three members on the recommendation of the Commissioner for Natural Resources.

After the coming into effect of the Act no salt codfish is to be exported except under a licence issued by the Board and then only by the exporter licensed by the Board. Licensed persons may include those who occupy and operate premises suitable for the proper storage, handling, packing and shipment of fish, and brokers acting on behalf of minor exporters.

The Board is to make to the Commissioner recommendations for the making of rules and regulations respecting the preparation, grading, packing, branding and marking for export and exporting of fish, and for regulating shipments of fish to the several markets and for controlling the grades of salt to be used in the industry, and generally.

The constitution of the Association of Salt Codfish Exporters gives them votes at meetings of the Association on a graduated scale based on the annual average exports, running from one vote for 5,000 quintals to six votes for over 50,000 quintals. The Board is entitled to charge fees for licences and for membership in the Association.

Income-tax.—Act No. 31 provides, reciprocally with Great Britain, an exemption from income-tax of income derived directly or indirectly through an agency in Newfoundland by a person who is resident in the United Kingdom and is not resident in Newfoundland, unless: (1) Such income is derived from the sale of goods from a stock in Newfoundland; or (2) Such income accrues directly or indirectly through any branch or management in Newfoundland or through an agency in Newfoundland where the agent has and habitually exercises a general authority to negotiate and conclude contracts, and provided that for the purposes of this exception a person when a body corporate shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and shall be regarded as resident in Newfoundland if its business is managed and controlled in Newfoundland.

Inspection of Ships.—Act No. 33 follows along the lines of former Acts of 1925 and 1929, provides for the inspection of ships and machinery, including Newfoundland sealing ships, for the carrying of boats and lifebelts, for the conduct of boat drill, and for the detention of unsafe ships, British or foreign, also for the limitation of the number of passengers who may be carried.

Merchant Shipping (Load Lines).—Act No. 34 is passed for the purpose of applying, and providing machinery for the administration of, the International Conventions in relation to load lines on vessels. The majority of its provisions are modelled upon the law in force in England. The Load Line Rules at present in force in the United Kingdom are, *mutatis mutandis*, to apply in Newfoundland, and new rules are to come into force in Newfoundland three months after they come into force in the United

Kingdom, subject to a power in the Commissioner for Public Utilities to modify them by regulation, if necessary, to suit local conditions. The same position applies with regard to the Timber Cargo Regulations of the United Kingdom.

Ranger Force.—Act No. 37 creates a supplementary Constabulary Force of a mobile nature somewhat along the lines of the Royal Canadian Mounted Police, the intention being that this Force shall, primarily under the Commissioner for Natural Resources, be used for the carrying out and enforcement of the laws for the protection of game, prevention of forest fires and the like, and also for the carrying out of customs and revenue laws. The present policy of the Government is that the existing Constabulary Force should operate in the relatively populous Peninsula of Avalon and control the two industrial areas of Grand Falls and Corner Brook, while this new Ranger Force should perform police duty in the remainder of the country, which is more sparsely inhabited and engaged mainly in fishing and logging.

Most of the provisions of the Act are based upon the Acts relating to the Royal Canadian Mounted Police.

Peace Treaties.—The Peace Treaties Act, 1920, provided *inter alia* that the (then) Governor in Council might do all such things as he might consider necessary for carrying into effect the Treaty of Versailles, his intentions being carried out by Order in Council. Act No. 44 adds a power to the Governor in Commission to make Orders in Commission prohibiting the export of military stores or of any other commodity, or prohibiting the supplying of money, credit or other financial assistance to any country or to any citizen of any country, and generally to do or prohibit the doing of any act for the protection of the rights or the carrying out of the obligations of the Government of Newfoundland or of the Government of the United Kingdom under the said Treaty or under any agreement forming an addition or supplement thereto. The effect of the Act is to enable the Governor in Commission to make Orders for carrying out obligations in connexion with the Leage of Nations, as for example in connexion with the imposition of sanctions.

12. BERMUDA.

Acts passed—52.

Escheats.—Act No. 9 amends the Act of 1871 in order that points of law which may arise in escheat proceedings may be referred by the Provost Marshal General to the Supreme Court.

Commissions of Inquiry.—Act No. 25 gives power to the Governor to issue commissions of inquiry into matters of a public nature; defines the duties of commissioners and the mode of holding inquiries. The commissioners under the Act are given the powers of the Supreme Court to summon and examine witnesses. Any person implicated or concerned in the matter under inquiry is entitled to be represented by a counsellor or attorney.

Probate.—Act No. 33 provides for the recognition in Bermuda of probate and letters of administration granted in His Majesty's Dominions or by a British court in a foreign country.

Currency.—Act No. 40 approves the issue of five-shilling Bermuda currency notes.

Customs Duty.—Act No. 41 exempts from customs duty any plant,

etc., imported for the express purpose of breaking up and removing any wreck, hulk, ship, etc.

Civil Service.—Act No. 43 consolidates and amends the laws relating to salaries, discipline, etc., of civil servants employed in the service of the Islands.

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* GEORGE S. KNOWLES, ESQ., C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*]

Acts passed—73.

Several Acts passed during 1935 dealt with financial assistance by the Commonwealth to the States and the distribution through the States of assistance to primary producers and others. Legislation was also passed providing for the control of the marketing and distribution of certain primary products, including dairy produce, meat and wheat.

Air Navigation.—The Carriage by Air Act (No. 18) was passed to give effect to the International Convention for the unification of certain rules relating to international carriage by air which was signed at Warsaw on October 12, 1929.

Assistance to States.—Grants were made to the States during 1935 as follows: £1,500,000 to South Australia (Act No. 42); £800,000 to Western Australia (Act No. 43); and £450,000 to Tasmania (Act No. 44). In addition, an amount of £500,000 was appropriated by the States Grants Act (No. 46) for payment to the States (except Tasmania) on an approximate population basis. Assistance was also granted to the States for specific purposes. This assistance is referred to under the headings "Farmers' Debt Adjustment," "Unemployment Relief" and "Wheat Industry."

Bounties.—The Raw Cotton Bounty Act (No. 6) amends the original Act (No. 22, 1934) in order to overcome a slight difficulty which arose in calculating the rate of bounty, and the Orange Bounty Act (No. 49) makes provision for the payment of a bounty of 2*s.* per export case on certain oranges exported to the United Kingdom during the year 1935.

Customs.—The Customs Act (No. 7) inserts a definition of "United Kingdom" in the principal Act. By this definition, the United Kingdom includes the Channel Islands and the Isle of Man. By reason of an amendment of the Customs Act made in 1934, it becomes necessary for Customs Tariff Schedules either to be approved by Parliament by being incorporated in Tariff Acts or else validated within six months from the time the Schedules are introduced into the House of Representatives. Several Schedules were introduced, but not approved within the prescribed time. In consequence, the passage of the following Acts was necessary: Customs Tariff Validation (No. 19); Customs Tariff (Exchange Adjustment) Validation (No. 20); Customs Tariff (Canadian Preference) Validation (No. 21); Customs Tariff Validation (No. 2) (Act No. 31); and Customs Tariff (Exchange Adjustment) Validation (No. 2) (Act No. 32).

Excise.—The Spirits Act, 1932, had increased from two to three years the period of maturity of certain Australian whiskies. This provision was not to take effect until October 1, 1935. Prior to that date, however, the original period of two years was restored by the Spirits Act, 1935 (No. 24).

Financial Relief.—Financial Relief Act, No. 36, partially restores salaries of public servants and allowances paid to members of Parliament. The restoration is approximately at the rate of 2½ per cent. Relief from sales tax and the special property tax is referred to under the next sub-heading "Taxation."

Taxation.—With one exception, the prevailing rates of income-tax were continued by the Income Tax Act (No. 50). The exception was the special property tax of 6 per cent. of the taxable income derived from property. The rate of this tax was reduced to 5 per cent.

The list of exemptions from sales tax was considerably extended by the Sales Tax (Financial Relief) Act (No. 45). During 1934, the High Court [1] decided that the Sales Tax Acts did not apply to second-hand goods. The Government decided to meet the position arising out of this decision by amending the law to ensure the retention of tax paid on second-hand goods prior to December 13, 1934 (*i.e.* the date of the decision), and to provide for the exemption of second-hand goods on and after that date except in the case of leased goods. The necessary amendments in the law are made in the following Acts, namely: Sales Tax Assessment Act (No. 1) (Act No. 8); the Sales Tax Assessment Act (No. 9) (Act No. 9); and the Sales Tax Act (No. 9) (Act No. 10); and the Sales Tax Procedure Act (No. 12). The Sales Tax Exemptions Act (No. 60) simplifies the position relating to exemptions by setting them out in one classified and numerically itemized schedule in place of the many unclassified provisions formerly contained in various Acts, Regulations and Proclamations. Following on this Act is the Sales Tax (Securities and Exemptions) Act (No. 61). Under this Act the requirement as to the lodgment of sales tax securities has been discontinued except in special cases.

Soldier Settlement Loans.—Act No. 26 approves an agreement between the Commonwealth and the States, dated July 3, 1934, in relation to soldier settlement loans. This agreement also amends the provisions of the Financial Agreement in relation to the method of appointing representatives of the Commonwealth and the States at meetings of the Loan Council.

Immigration.—Act No. 13 was passed to cure certain defects in the principal Act revealed by the High Court decision in the case of *Griffin* v. *Wilson*.[2] These defects related, *inter alia*, to evidentiary provisions applicable to prosecutions under s. 7 of the Act.

Industrial, Literary and Artistic Property.—In consequence of the transfer of the Patent Office to Canberra, an amendment of the definition of "Supreme Court" in s. 4 of the principal Patents Act became necessary. Under the amending Patents Act (No. 16), "Supreme Court" is defined as the Supreme Court of the Australian Capital Territory or the judge thereof. Previously, "Supreme Court" was defined as the Supreme Court of the State in which the Patent Office is situated or a judge thereof. The Copyright Act (No. 17) provides a remedy for a person aggrieved by

[1] *Deputy Federal Commissioner of Taxation* (*S.A.*) v. *Ellis and Clark, Ltd.* (1934) 52 C.L.R. 85.

[2] (1935) 52 C.L.R. 260.

groundless threats of legal proceedings, in respect of an alleged infringement of a copyright, by a person claiming to be the owner of the copyright.

Invalid and Old-age Pensions.—Act No. 1 repeals the " property " provisions and the requirements as to contribution by relatives towards the support of pensioners, which had been inserted in the principal Act in 1932. Briefly, the " property " provisions related, *inter alia*, to the furnishing of particulars as to real property owned by a pensioner or claimant and as to his relatives; to the repayment of pension where the pensioner acquired property (not including his home) exceeding £400 in value; to the notification of dealings in land by the pensioner; and as to the repayment to the Commonwealth out of the estate of a deceased pensioner of the amount of pension received by him.

Ministers of State.—The maximum number of Ministers of State was increased from nine to ten and the annual appropriation for Ministers' salaries was increased from £12,240 to £13,560 by the Ministers of State Act (No. 35).

Navigation.—The Navigation Act (No. 30) excepts from the definition of " coasting trade " in s. 7 of the principal Act British ships of not less than 10,000 tons gross tonnage and a sea speed of not less than 14 knots, which may carry passengers from a port in Australia to another port in Australia with which the first port of embarkation is not connected by rail. This provision will permit of British ships carrying passengers between the mainland and Tasmanian ports notwithstanding the coastal trade provisions of the Act. The Act also makes provisions for the installation of wireless telegraph apparatus on small ships not already required to be so equipped. Prior to this Act, the installation of wireless telegraph apparatus and the carrying of a certificated operator was required only in the case of passenger ships (*i.e.* ships carrying more than 12 passengers irrespective of tonnage) and on other ships of 1,600 tons gross tonnage and upwards.

Parliamentary Papers.—Under the Parliamentary Papers Act (No. 64), the printing of " Hansard " Reports is to be deemed to have been authorized by each of the Houses of Parliament.

Farmers' Debt Adjustment.—An important measure in the Government's rural rehabilitation scheme is the Loan (Farmers' Debt Adjustment) Act (No. 23). The Act authorizes the borrowing of £12,000,000 for the purposes of financial assistance to the States in the making of payments to or for the benefit of farmers. One condition of the grant to a State is that the moneys granted will be used by the State for the purpose of discharging, in whole or in part, the debts of farmers by means of compositions or schemes of arrangement between farmers and any or all of their creditors. The money is not to be utilized for the benefit of an individual farmer unless, as the result of any composition or scheme arranged, he has a reasonable prospect of successfully carrying on farming operations.

Export Control and Organization.—The Dairy Produce Export Control Act (No. 70) reconstitutes the export organization for the marketing of products of the dairying industry. A new board called the Australian Dairy Produce Board is established. The advisory functions of a body known as the Australian Dairy Council will be assumed by the new board. The primary object of the new organization is stated to be the centralization of the efforts of the many existing boards operating in connexion with the dairying industry with a view to a more direct effort at raising the

standard of Australian dairy produce, particularly that intended for export.

The machinery for control of the export of meat is provided for in the Meat Export Control Act (No. 52). This control is to be effected through an Australian Meat Board. Regulations may be made by the Governor-General for prohibiting the export of meat, meat products or edible offal except by persons holding licences and subject to prescribed conditions and restrictions. The administrative and other expenses of the Board will be paid from a fund established by the Meat Export Charges Act (No. 53) which imposes charges at certain specified rates on meat exported from the Commonwealth. The charge on a hindquarter of beef, for instance, is $\frac{1}{2}d$.

Canned fruit salad was included in the definition of " canned fruits " by the Canned Fruits Export Control Act (No. 4) and thus made subject to the control provisions prescribed by the principal Act. The necessary authority for the levy of charges on the export of canned pineapples and canned fruit salad is given by the Canned Fruits Export Charges Act (No. 56). Provision is also made in the Canned Fruits Export Control Act for the conservation of the public service rights of the officer acting as Secretary to the Canned Fruits Control Board. Similar provision is made in the Dried Fruits Export Control Act (No. 3) with respect to the Secretary to the Dried Fruits Control Board.

In order to assist in the advertising overseas of Australian eggs, apples and pears and for other purposes, the Primary Produce Export Charges Act (No. 69) imposes certain charges upon the products mentioned upon their export from Australia. The machinery for the disbursement of the money received from the charges imposed on eggs, apples and pears is provided for in the Primary Produce Export Organization Act (No. 71).

Regulation of Inter-State Trade in Primary Products.—Processed cheese is omitted from the scope of the Dairy Produce Act, 1933, by the Dairy Produce Act (No. 22). The latter Act also makes further provision in relation to the carriage inter-State of dairy produce by licensed carriers. Similar amendments as to carriers were made in the Dried Fruits Act, 1928, by the Dried Fruits Act (No. 5).

Fertilizer Subsidies.—To encourage the use of fertilizers on pasture and other crops (except wheat in respect of which other provision is made), the Government continued the subsidy of 15*s*. per ton on fertilizers used in the production of primary products other than wheat. The amount appropriated under the Primary Producers' Relief Act (No. 47) for this purpose for the year ending June 30, 1936, is £275,000 and the subsidy is to be payable on half-ton lots instead of on one-ton lots. The amount of £250,000 appropriated for the purpose of the fertilizer subsidy for the year ending June 30, 1935, was increased to £325,000 by the Financial Relief Act (No. 2) (Act No. 57) in order to allow further claims to be paid.

Railways.—The terms of the settlement of the controversy between the Commonwealth and South Australia as to the extension of the Trans-continental Railway from Port Augusta to Red Hill are contained in an agreement embodied in the Port Augusta to Port Pirie Railway Act (No. 72). Under this agreement, the Commonwealth will extend the standard gauge to Port Pirie instead of to Red Hill and the State on its part will extend the existing 5 ft. 3 in. gauge railway from Red Hill to Port Pirie. An earlier Act—the Port Augusta to Red Hill Railway Act (No. 25)—had made certain provision as to the cost of, and appropriation of funds for, the line, as originally proposed, from Port Augusta to Red Hill.

Repatriation.—The benefits to returned soldiers have been liberalized by the Australian Soldiers' Repatriation Act (No. 58) under which returned soldiers who are permanently unemployable or who are suffering from pulmonary tuberculosis are to receive a "service" pension. "Service" pensions may also be paid to returned soldiers between the ages of 60 and 65 years and to returned nurses between the ages of 55 and 60 years, provided that they have served in a theatre of war.

By the amending War Service Homes Act (No. 54), the position of widows and widowed mothers of returned soldiers with respect to repayment instalments on war service homes will be relieved in those cases where hardship would be caused if the full amounts of instalments were insisted upon. The Minister will have power to reduce such amounts and the balance of the instalments will be paid from a special War Service Homes Relief Trust Account established under the Act.

Sanctions.—By the Sanctions Act (No. 48), the necessary machinery is provided to enable Australia to carry out her obligations under the Covenant of the League of Nations to impose sanctions against Italy in accordance with a decision of the League arising out of the Italo-Abyssinian conflict.

Seat of Government.—The Seat of Government Supreme Court Act (No. 27) extends the jurisdiction of the Supreme Court of the Australian Capital Territory to the Jervis Bay area. Certain minor amendments of a drafting character are made to the principal Act by the Seat of Government (Administration) Act (No. 39).

Sugar.—An agreement between the Commonwealth and the State of Queensland in relation to the regulation of the Queensland sugar industry for a period of five years commencing with the season 1936–37 was approved by the Sugar Agreement Act (No. 59). The Queensland sugar industry has been regulated for many years by agreements similar to the one recently approved by Parliament. Under this Act the importation of sugar into the Commonwealth, except with the consent of the Minister, is prohibited.

Unemployment Relief.—The amount of £1,533,750 appropriated by the Loan Appropriation (Unemployment Relief) Act, 1934, for unemployment relief was increased by the Loan Appropriation (Unemployment Relief Act (No. 2) to £2,064,750. The additional amount is to be expended in assistance for metalliferous mining in the Northern Territory and Papua, for forestry in the several States and the Territory for the Seat of Government and for certain public works specified in the Schedule to the Act.

Territories.—The Norfolk Island Act (No. 14) establishes an Advisory Council for Norfolk Island to advise the Administrator in relation to any matter affecting the Island and the New Guinea Act (No. 63) adds certain provisions to the New Guinea Act, 1920–32, in relation to machinery for the calling of meetings of the Legislative Council of New Guinea and for the appointment of a deputy of the non-official member of the Executive Council.

Whaling.—The Whaling Act (No. 62) makes provision to ensure the application of the Convention for the Regulation of Whaling signed at Geneva on September 24, 1931, and the punishment of infraction of the provisions of the Convention.

Wheat Industry.—Several Acts were passed in relation to the wheat industry. A Royal Commission had been appointed in 1934 to hold an inquiry respecting certain matters in relation to the industries of growing,

handling and marketing wheat, manufacturing flour and other commodities from wheat, and manufacturing, distributing and selling bread. The Wheat Commission Act (No. 15) was designed to facilitate the proceedings of this Commission by investing it with the powers, rights and privileges specified in the Royal Commission Act, 1902–33, as appertaining to a Royal Commission.

The amount available for the relief of wheat growers in respect of crops sown during 1934 was further augmented by the Wheat Growers Relief Act (No. 11) in the case of wheat-growers who were in adverse financial circumstances and who suffered serious loss by reason of specially adverse seasonal conditions or extensive damage to their crops arising from the prevalence of pests or disease. The amounts granted to the States by this Act by way of financial assistance for the purpose of disbursing the relief directly to the growers are as follows: New South Wales, £100,000 ; Victoria, £192,000 ; Queensland, £12,000 ; South Australia, £127,000 ; Western Australia, £137,000 ; Tasmania, £5,250. The Wheat Growers Relief Act (No. 2) (Act No. 55) granted a further amount not exceeding £4,500 to Tasmania to re-imburse that State for refunds in respect of flour tax made by it to millers and others.

As part of the legislation necessary to provide funds for the financing of relief to wheat growers for the 1934 season, the Flour Tax Assessment Act, 1934, and associated Tax Acts had been enacted. Legislation was passed in 1935 extending the operation of these Acts beyond January 7, 1936, in order to secure revenue from which further grants could be made to the States for the relief of wheat growers.[1] The Government had devised another plan for the 1935 and subsequent seasons for controlling the wheat industry. This plan involved a home-consumption price for wheat and the regulation of the trading in wheat. The Commonwealth enacted its legislation—the Wheat and Wheat Products Act (No. 65)—but the necessary complementary State legislation had not been enacted to permit of the plan being put into operation for the 1935–36 season. In consequence the existing flour tax legislation was continued temporarily. The Tasmania Grant (Flour Tax) Act (No. 73) provides for the payment monthly to Tasmania of £4,300 during the period, commencing on January 7, 1936, during which the flour tax continues to be imposed.

2. NEW SOUTH WALES.

[It is hoped to publish this Summary in the next *Review*.]

3. QUEENSLAND.

[*Contributed by* J. E. Broadbent, Esq., I.S.O., *Parliamentary Draftsman*.]

The session commenced on August 26, 1935, and ended on November 28, 1935. Measures passed—40.

Statistics.—Act No. 9 transfers from the Registrar-General to the Director of the Bureau of Industry the general supervision and compilation of statistics. The Bureau at present compiles various important and scientifically arranged statistics and this measure co-ordinates the whole of the statistical administration of the State.

Workers' Compensation.—Act No. 26 liberalizes the provisions of the principal Act in various directions. The basis of weekly compensation

[1] See Acts Nos. 66, 67 and 68.

is altered to provide that where an adult worker is working in an industry governed by an award, his average weekly earnings are deemed to be not less than the basic wage (which is £3 14s. at present). This amendment overcomes the difficulty in calculating the average weekly earnings of an adult worker who, by reason of his employment, is not paid at a definite weekly amount. An intermittent relief worker is also benefited in that a relief worker will receive up to the basic wage where there are dependent children. An amendment is also made in regard to provisions dealing with the " Table of compensation " for specified injuries. Previously the " total loss " of the limb or other part of the body was requisite in determining compensation. Now a percentage of the prescribed amount payable for the total loss, equal to the percentage of the diminution of the full efficient use thereof, is awarded in lieu of the full amount. The maximum amount payable for compensation in respect of mining diseases has been increased by £100.

Succession and Probate Duties.—Probate duties have always been paid on the issue of probate or administration and payment indicated by an impressed stamp on the grant. In some cases, however, no grant is issued and in consequence it was argued that in such cases probate duty cannot be assessed or recovered. Act No. 27 confirms the existing practice which is to assess and recover the duty irrespective of the issue of the grant. Security for succession duty not presently payable is also required.

Land Tax.—Act No. 40 imposes the super land-tax not only for the financial year 1935–36, but in and for each financial year thereafter. The previous practice since 1918 (except for the financial year 1931–32) was to impose this super-tax by an annual Act.

Constitution.—Act No. 38 restores those privileges conferred upon ex-members of the abolished Legislative Council by the Act of 1922 which were taken away by the Act of 1929. The privileges are a life pass over the Queensland railways and the use of the Parliamentary library.

Fish and Oysters.—Act No. 10 tightens up the law in regard to dynamiting of fish. It will be an offence to have in possession fish taken by means of explosive, poisonous or other noxious material, and the averment in any complaint that any fish has been so taken shall be sufficient evidence of that fact unless and until the contrary is proved.

Whaling.—This measure, No. 39 (which comes into force on a date to be proclaimed) is complementary of Federal legislation and was passed in terms of applying the provisions of the Convention for the regulation of whaling which was signed at Geneva on September 24, 1931, and the punishment of infractions of its provisions. The high contracting parties to that Convention included the Commonwealth Government. When in force the measure will apply only within Queensland waters. The taking or killing of certain kinds of whales is prohibited. Licences are required for taking, killing and treating those whales which may lawfully be taken. Permits may be granted to take, kill and treat whales for scientific purposes.

Diseases in Plants.—Act No. 17 will facilitate the cleaning up of abandoned orchards and permit of effectual quarantine. Wider regulation-making power is conferred whereby better provision may be possible for the destruction of diseased fruit whether in orchards or in shops.

Dairy Produce.—Act No. 25 brings " processed cheese " within the ambit of the Acts. The owner of swine is required so to confine them that they will not be permitted to be or to approach or remain within

150 feet of any dairy produce premises wherein dairy produce is stored. Provision is made for cream routes, the carriers whereon are required to be licensed, except that persons who carry cream produced by themselves and under hygienic conditions will not require a licence. The regulation-making power is also extended in the direction of ensuring wholesome and hygienic dairy produce supply and manufacture.

Fertilizers.—Act No. 19 repeals all previous laws dealing with the subject and provides a measure in accordance with existing requirements. Sale of fertilizers without a licence is prohibited. The Minister has an absolute discretion to grant or refuse a licence. Dealers must also be registered. Every dealer selling fertilizer of a greater value than ten shillings must on or before delivery sign and give to the buyer an invoice stating certain prescribed particulars, which invoice is a warranty of the truth thereof. It is an offence to sell fertilizer which is not of the prescribed standard or which is falsely named, branded or labelled. A buyer may have a sample of his purchase analysed. Regulations may be made to give full effect to this Act, which has been passed as a protective measure to the farmer and the user of fertilizers.

Stock Foods.—Act No. 18 provides for an invoice of warranty of compliance with the requirements of the Act. To check irregularities in the selling of hay and chaff or other prescribed stock foods, provision is made for the effective marking of the container thereof so that the Department may be able to trace the person responsible for breaches of the Act in respect of the faulty stock food. Wide powers are given to an inspector to seize and detain stock food which he reasonably suspects does not comply with the provisions of the Act.

Primary Producers Organization and Marketing.—By Act No. 35 the principal Act is made subject to the Commonwealth constitution. Pigs are declared to be and to have always been a commodity. Localities outside the jurisdiction of a Commodity Board may be included in the latter's jurisdiction on proof of a community of interest of growers. Certain provisions deal with priority of payments in respect of orders on Commodity Boards in that harvesting costs have priority over orders other than for wages or Crown dues. Funds may be established for legal expenses' contributions where proceedings are of common interest to growers and Boards. All orders in Council are validated.

Wheat and Wheat Products.—Act No. 24 comes into force on a date to be proclaimed. Such proclamation will be made when the Commonwealth and States agree to a general wheat scheme, the main purport being the securing of a home consumption price for wheat. The scheme follows in the main that of the recent Dairy Products Stabilization scheme, which is a Commonwealth Act implemented by State legislation.

Regulation of Sugar Cane Prices.—Act No. 16 provides that the voting qualification for central and local boards shall be the same—namely, no cane grower shall be entitled to more than one vote and no cane grower shall be entitled to vote unless he is a grower of cane from 5 acres or over of assigned land.

Farmers' Assistance (Debts Adjustment).—The Commonwealth passed a Loan Farmers' Debt Adjustment Act in 1935 which authorized the raising and expending of money to provide for the grant of financial assistance to the States in and for the benefit of farmers to enable them to make compositions or schemes of arrangement with their creditors in respect of their debts.

Act No. 23 will implement the Commonwealth measure so far as the State is concerned. The Act is, subject to the Minister, to be administered by a board which is to be the Rural Assistance Board constituted pursuant to the Rural Assistance Board and Agricultural Bank Acts Amendment Act of 1934. The Board's functions may, with the approval of the Governor in Council, be delegated to other officers, except the power of approval of schemes and the grant of stay of proceedings. The Board is deemed a Commission under the Official Inquiries Evidence Acts.

A fund is constituted called the Federal Aid Rehabilitation Fund, into which moneys received by the Commonwealth are paid, as well as moneys subsequently repaid by farmers. The fund will not be charged with administrative expenses, which expenses must be borne by the State.

It is provided that the Act shall not bind the Crown. No payment shall be made in respect of any debt due to the Commonwealth or the State or to a Government Authority. Any farmer who proposes to effect a composition with his creditors shall make application to the Board. This application must be submitted by December 31, 1935, or extended time as prescribed by proclamation. The time has, in fact, been extended to March 31, 1936. This application shall be accompanied by a statement giving particulars of the proposed scheme and setting forth the amounts which the farmer's creditors have informed him that they are prepared to accept in discharge wholly or in part of his debts and/or liabilities to such creditors.

There will be a preliminary consideration of the applications. The Board may refuse an application for consideration or approve an application for consideration. If an application is approved for consideration, it is entered in the register. The purport of the preliminary examination is to allow the Board to determine what applications are relevant and what are not. The entry in the registry of those accepted for consideration determines the date of the operation of the stay of proceedings provisions referred to later.

The Board considers the applications entered in the registry, and the basis of acceptance is that if the scheme is approved the farmer will be able to carry on farming operations, and will be given a reasonable prospect of so carrying them on successfully.

Provisions deal with meeting of creditors. The assistance approved by the Board to give effect to a compensation or scheme approved by the Board shall be paid from and be a charge upon the fund. Such assistance shall be given in such manner and subject to such terms and conditions as the Board shall in each case in its absolute discretion determine. The necessary securities must be entered into, and no assistance to a farmer by way of payment from the fund shall be approved by the Board for the purpose of discharging in whole or in part any debt of such farmer unless in the opinion of the Board some discharge of the debt is necessary to ensure that the farmer will continue to carry on farming operations, and to give him a reasonable prospect of carrying on those operations successfully.

With the approval of a local authority, payments for arrears of rates may be compounded.

The measure also provides for a stay of proceedings. The stay operates from the entry in the register of those applications approved for consideration. If the application is refused the stay of proceedings lapses; if approved, the stay remains for a period not exceeding twelve months

or extended time granted by the Board. But objectors may be heard in respect of such extensions, and the stay of proceedings will be removed on proof of false statements, neglect to observe the scheme, failure to apply receipts in a proper manner, abandoning or neglect of farm by the farmer. However, a stay of proceedings shall not operate in respect of torts committed by applicant, injury suffered by a worker in his employ or in proceedings under the Arbitration and Wages Acts, and in respect of alimony or maintenance cases. A farmer, while a stay order remains in force, shall not without leave of the Board sell or mortgage his estate. Due provision is made for the registration of applications and the necessary entries in registries dealing with stay orders.

The Minister for Agriculture for the purposes of this Act is a corporation, and assistance under this Act is deemed assistance given by the Minister. Moneys due and owing by a farmer in respect of assistance are recoverable as a debt due to the Minister. The Board may exercise any such powers as are conferred upon it by or under any Act of the Parliament of the Commonwealth relating to debt adjustment of and relief to farmers.

The Auditor-General of the Commonwealth is allowed to make an inspection of books and accounts regarding matters under this Act, and the Queensland Auditor-General is required to certify as to compliance or otherwise by the State with the conditions specified in the Commonwealth Act. Usual penalty clauses are inserted, and the Financial Emergency Acts and kindred Acts are preserved.

Power is given to the Governor in Council to make Orders in Council and Regulations to give effect to the Act.

The measure is to be read subject to the Commonwealth Constitution.

Adoption of Children.—The object of Act No. 7 is to make adequate provision for the adoption of children, to safeguard the interests and rights of adopted children and of their adopted parents, and ensuring that the rights of natural parents shall also be safeguarded. The present law, which provides a limited form of the adoption of a child under ten years, has been found to be inadequate, and will hence be superseded by this measure. The power of making adoption orders is conferred upon the Director of the State Children Department, and not upon the Court, but there is a discretion given to the Governor in Council in that he may cancel any adoption order.

Application for adoption of an "infant" (which means a person under twenty-one years of age who has never been married) is made to the Director by the person desirous of adopting the infant or by two spouses jointly.

It is, however, provided that no adoption shall be made in any case where the applicant is a person under the age of twenty-five years or where the applicant is less than twenty-one years older than the infant desired to be adopted.

It is, however, provided that where the applicant and the infant are within the prohibited degrees of consanguinity, or being of the same sex are of the same blood, the Director may make the adoption order notwithstanding that the applicant is under the age of twenty-five years or is less than twenty-one years older than the infant; and an adoption order may be made in favour of two spouses jointly where one of such spouses is the natural or adopted parent of the infant in respect of whom the application is made, notwithstanding that either or both of such

spouses is or are under the age of twenty-five years or less than twenty-one years older than the infant concerned. A male person cannot adopt a female infant unless the Director is satisfied that there are special circumstances which justify the adoption.

No adoption order can be made without the consent in writing of every person or body who or which is a parent or guardian of the infant; but where any required consent cannot be obtained the Director has a discretion to dispense with it. It is also provided that before making the order the Director must satisfy himself that: (*a*) All necessary consents have been given and that the persons giving the same understand the nature and effect thereof; (*b*) The order will be for the interest and welfare of the infant; (*c*) The adopter will not receive any payment or reward other than such as the Director approves; (*e*) The child, if over the age of twelve years, has consented to the adoption.

An order may be made subject to terms and conditions including the making of provision for the infant.

The effect of an adoption order is: (i) The child, unless the order otherwise provides, assumes the surname of the adopter; (ii) To extinguish all rights, duties, obligations and liabilities of parents or guardians in relation to the future custody, maintenance and education of the child, including the right to appoint guardians or to consent to or to give notice of dissent to marriage; (iii) To vest in and make enforceable by and against the adopting parents all such rights, etc., as aforesaid to the same extent as if the child had been born to them in lawful wedlock, and to entail upon the child the same duties, etc., in relation to its adopted parents as if they were its lawful parents.

The provisions as to an adopted child's right to succeed to real and personal property are important.

An adopted child is entitled to succeed (whether under an intestacy or disposition) to the real and personal property of its adopted parents to the same extent as would be the case if it were in fact their lawful child. But an adopted child shall not have: (i) Any right of succession to the real or personal property of a relative of its adopted parents who dies intestate; or (ii) Any right to any real or personal property under any disposition made by a person or persons other than its adopted parents in favour of the issue, child or children of the adopter or adopters unless it appears that it was the intention of the person or persons making the disposition to include adopted children as objects of such disposition.

An adopted child shall not have any right of succession to any real or personal property of its natural parents which, if the adoption had not been made, might have been claimed (whether under an intestacy or disposition) by such child by reason of its being the natural child of such parents born in lawful wedlock, unless in the case of a disposition such child is expressly named therein.

But an adopted child is not deprived of: (i) Any right of succession to the real or personal property of a relative of its natural parent or parents who dies intestate; or (ii) Any right to any real or personal property under any disposition made by a person or persons other than its natural parents in favour of the issue child or children of its natural parent or parents unless it appears that it was the intention of the person or persons making such disposition to exclude as objects of same such of the children of the natural parents as have been adopted by others.

Any estate, right or interest in any real or personal property to which

any person has become entitled either mediately or immediately in possession, expectancy or contingency by virtue of any disposition made before the making of the adoption order, or by virtue of any devolution by law on the death of any person dying before the making of the adoption shall not be affected by the making of the adoption order.

A marriage between an adopted parent and an adopted child of such parent is unlawful and void.

The succession of an adopted child attracts the same duties as the succession of a lawful child.

Laws relating to fatal accidents, workers' compensation, insurance and friendly societies apply to adopted children in the same manner and to the same extent as to natural children.

The adoption of an illegitimate child is not affected by the marriage of its natural parents, but nothing in the Act is to debar any such child from being legitimated.

Interim adoption orders may be made by way of a probationary period of six months. The adopters thereunder are subject to the Infant Life Protection Acts in regard to the registration and inspection of their homes, but exemption may be granted by the Minister from these provisions.

No adopting parent can receive any consideration for the adoption unless the Director consents thereto. Holders of adoption orders made prior to this Act under the Infant Life Protection Acts will, if the Director is satisfied that it is for the interest and welfare of the infant concerned, be entitled to an order under this Act.

The Governor in Council has a discretionary power to cancel an adoption. Upon the cancellation of an adoption order the parties all revert to the legal relationships in which they stood immediately prior to its making, but such cancellation does not affect acts lawfully done and rights lawfully acquired thereunder.

All adoption orders are to be in triplicate, and all copies are to be forwarded to the Registrar-General, who is to register same in a register to be kept by him and called the Adopted Children Register. He is also to provide an index to this register, and is to number the orders registered consecutively, and is to note the relative birth registration with a sufficient marginal note, and, where necessary, is to cause District Registrars to do likewise.

Birth registrations noted as above are closed to public search, and information from them is not to be divulged unless a Court so orders.

In lieu of information from the register of births a copy of or extract from the schedule to the order may be obtained. The Act makes provision for this schedule, which contains all particulars ordinarily required.

The usual machinery provisions are inserted, including power to make regulations.

Liquor.—This important measure, No. 20, of liquor reform has for its objective the better distribution throughout the State of the services provided by hotels, and the securing of an improved class of hotel with concomitant improved service and accommodation. Under the principal Act the system of licensing was effected by means of Licensing Courts who had jurisdiction not only in respect of the grant or refusal to recommend licences or renewals, but also was the court in which offences against the Liquor Act were heard.

This measure will make a wide change. While offences for breaches of the Acts will be heard in the Petty Sessions Court, the general administra-

tion of the Act will be entrusted to a Licensing Commission. This Commission shall consist of three members (one of whom shall be a Supreme Court Judge or Member of the Industrial Court). These members shall be appointed by Commission in His Majesty's name. Provision is also made for the appointment of deputy members in the case of illness, inability or absence of members. The Commission shall have and may exercise all or any of the powers, authority, protection and jurisdiction of a Commission within the meaning of the Official Inquiries Evidence Act.

The Commission shall be charged with the licensing of licensed victuallers, wine-sellers and packets, the registration of spirit merchants and clubs, the issue of permits to exempted clubs or associations, the granting of billiard licences and bagatelle licences, and for the purpose of better serving the requirements of any locality with the distribution of licensed victuallers and wine-sellers' licences.

The functions, powers, authorities and jurisdiction of the Commission are exclusive, and every determination order or decision of the Commission shall be final or conclusive, and shall not be impeachable for any informality or want of form, or be appealed against, reviewed, quashed or in any way called into question in any court on any account whatever. The chairman (who is the judge or member of the Industrial Court so appointed) shall decide all questions arising as to the jurisdiction of the Commission or as to the construction of any of the provisions of this Act relating to such jurisdiction, and his decision shall prevail and be the decision of the Commission. The Commission may at any time, if it thinks fit, rehear any matter which has been determined by it.

Usual statutory provisions deal with the jurisdiction of the Court of Petty Sessions (which will hear complaints) as to records and registers, the appointment of officers and inspectors, and the duties thereof. A new departure is made in that a body corporate may apply for and be granted any licence, or may by transfer become the holder of any licence subject to certain conditions.

Licences will not be subject to annual renewal as aforetime, but will be permanent instruments, subject, of course, to obedience to the Act and Regulations. All licences, registrations and permits held at the passing of this Act shall be deemed to be licences, registrations or permits under this Act, and all persons, clubs and outdoor clubs or associations then holding licences, registrations or permits, and all premises then licensed or registered or permitted shall be under and subject to this Act. From and after the passing of this measure the number of each of the licensed victuallers and wine-sellers' licences existing at such passing shall be deemed to be the greatest number of each of such licences, respectively, which may be in force at any time within the State ; but nothing in this measure shall prevent or be deemed to prevent the removal under this Act of a cancelled or surrendered licence to another locality in the same or in any other district.

Moreover, nothing in this measure shall prevent or be deemed to prevent a forfeited licence being transferred to some other person in respect of the same premises or removed to another locality in the same or in any other district.

In respect of the fees for licences, the Commission shall assess these fees. For a licensed victualler's licence,wine-seller's licence, certificate of registration of a club or permit in respect of an exempted club, the fee is fixed at a sum equal to $2\frac{1}{2}$ per cent. of the gross amount paid or payable

for liquor which during the twelve months ended on the last day of June in the preceding year was purchased for the premises ; a packet licence—£5 for every 200 tons or part thereof of the registered tonnage of the vessel, but not exceeding £20 annually ; a billiard or bagatelle licence—£5 for each table ; a bottler's licence—£5. Fees for certificates of registration as a spirit merchant are fixed at £75 where the business is carried on within 5 miles of the General Post Office, Brisbane, and £40 elsewhere, with a further percentage fee in each case on purchases. The maximum fee, however, in all cases shall not exceed £300.

Wide power is given to the Commission to assess the fees and to obtain the necessary information, and if such information is not available or in certain other cases, the Commission may assess the fees. Usual provisions deal with notice of assessment and payment thereof, and any licence permit or registration may be forfeited if the fee is not paid.

There will be power to prescribe by regulation the accommodation and/or essential services for a licensed victualler's or wine-seller's licence, but the existing provisions remain in force until so prescribed. Usual provisions deal with temporary licences, persons disqualified from holding licences, booth authorities, packet licences, bottlers' licences, billiard and bagatelle licences, registration of spirit merchants and exempted club permits. These provisions follow (with the necessary amendment as to jurisdiction of the Commission in lieu of the Licensing Court) in the main the previous Act. The same applies in respect of transfers, lost licences and procedure in case of death or bankruptcy of licensee. A new departure, however, is made in respect of the cancellation of licences. Wide powers are given to the Commission as to cancellation or the acceptance of the surrender of licences.

In the exercise of its functions herein, the Commission may, subject to the prescribed provisions : (*a*) cancel any licensed victualler's or wine-seller's licence ; or (*b*) upon the application of the licensee or where the licensee is not also the owner of the premises, upon the joint application of the owner and of the lessee or sub-lessee holding the licence, and of the mortgagee (if any), accept the surrender of any licensed victualler's or wine-seller's licence.

The Commission, however, shall not cancel or accept the surrender of any licence unless and until provision has been made to pay compensation in full for the cancellation or surrender. It is, however, provided that no person is entitled to compensation in respect of a licence which has been cancelled, forfeited or surrendered otherwise than in the exercise of the powers of the Commission as above—*e.g.* no compensation is payable when a licence is forfeited owing to breaches of the Act.

When the Commission proceeds to cancel any licence under its powers as above quoted, it shall serve notice to show cause on the interested parties. Certain factors must be taken into consideration by the Commission, such as whether the premises comply with the necessary requirements, the question of convenience of the public, the nature and standard of accommodation.

When the Commission has decided to cancel a licence, it shall pay compensation to the owner and licensee, and the provisions of the Act aim at fixing a fair and equitable compensation, the basis of which is fully set forth in the Act.

The Treasurer may advance to the Commission for the purpose of paying compensation such sums as are necessary from the Loan Account.

Moreover, a Trust Fund is also established at the Treasury for the purpose of financing this Act.

Power is given to the Commission to remove a cancelled, surrendered or forfeited licence to premises in another locality in the same district, or in any other district as it considers necessary to meet the convenience of the public and the requirements of any such locality. Certain persons will be given the right of objection to the Commission before the removal of any licence, namely: (*a*) the local authority of the city or town in which the premises are situated or are to be situated: (*b*) an elector of the district; (*c*) any owner or licensee of existing licensed premises within the immediate vicinity of such proposed licensed premises.

Licences so removed shall be sold by public tender subject to the terms and conditions prescribed in the measure.

An important matter is the abolition of Local Option. No further polls under the Local Option provisions shall be held. However, provision is made for the holding of a State-wide poll on the question as to whether the elector is in favour of prohibition or not. Provision is made for the presentation of the necessary petition praying for such referendums. The first petition may be so presented not later than November 30 of such year as shall be fixed by the Governor in Council, which year shall not be earlier than the sixth calendar year from the passing of this amending Act, and the referendum may be taken in the calendar year next following the year in which the petition is presented.

When the question has not been carried at a referendum a subsequent petition may be presented during a calendar year not earlier than the sixth calendar year after the taking of such referendum.

The usual machinery provisions are inserted dealing with the preparation of the petition (which must be signed by at least 10 per cent. of the electors of the State) and for taking of the poll and for the application of the Elections Act in regard thereto. If a prohibition poll is carried, then, from a date to be fixed by the Governor in Council, being not later than two years from the date of the referendum, the manufacture, sale and importation of liquor is prohibited, except as regards liquor required for medical purposes, the sale or supply of wine for sacramental purposes or the sale of methylated spirit for use in manufactures or as fuel.

Wide power is given to the Governor in Council to make regulations under this Act.

Infant Life Protection.—Act No. 6 increases the jurisdiction of the State Children's Department in regard to infants by raising the age from 3 years to 6 years. The measure also increases the amount of expenses that may be recovered against the father of an illegitimate child.

Dentistry.—Act No. 30 transfers the training and examination of dental students from the Dental Board to the University.

Maintenance and Alimony Relief.—Act No. 29 will afford a measure of relief to certain persons who are unable to comply with maintenance or alimony orders. A person who cannot pay the amount prescribed in the order against him is given an opportunity to show to the court that imprisonment should not be ordered against him owing to reasons mainly that his inability to pay was due to economic conditions and not through his own fault. The refusal by a court to make an order of imprisonment at any one time will not debar the court to exercise such remedy at a later date, but the defendant can still show to the court his circumstances at such date.

Income (Unemployment Relief) Tax.—Act No. 2 provides for a general reduction of one penny in the £1 in this tax and where the rate of income from exployment does not exceed £78 per annum such income is exempt from tax. Broadly, the rates of such tax as from October 1, 1935, are as follows: where the rate of income does not exceed £78 per annum, no tax; where the rate exceeds £78 per annum but does not exceed £104 per annum, 2*d.* in the £1; where the rate exceeds £104 per annum but does not exceed £208 per annum, 5*d.* in the £1; where the rate exceeds £208 per annum, but does not exceed £499 per annum, 8*d.* in the £1; where the rate exceeds £499 per annum, 11*d.* in the £1.

The measure also contains penal provisions in relation to frauds on the relief funds by the misuse of tickets and by impersonation and other devices.

Industrial Conciliation and Arbitration.—Act No. 3 deals with payments on holidays. It is also provided that where any person on any one day performs two or more classes of work to which a differential rate fixed by any award is applicable, such person, if employed for more than four hours on the class or classes of work carrying a higher rate shall be paid in respect of the whole time during which he works on that day at the same rate, which shall be at the highest rate fixed by any award in respect of any of such classes of work, and if employed for four hours or less on the class or classes of work carrying a higher rate, he shall be paid at such higher rate for four hours. Rationing is abolished as from December 31, 1935.

Coal Production Regulation.—Act No. 37 validates existing coal schemes and appointments of boards and determinations. The Central Board will have general supervision over District Boards and schemes, and where a District Board refuses or neglects to administer a coal scheme the Central Board can do so. The Central Board will also have power to refuse to issue coal trading licences where in the opinion of the Central Board the colliery was abandoned or if the collieries licensed can fulfil requirements. There is also power of suspension or cancellation by the Central Board subject to appeal to the Minister. In the case of the Board refusing to issue a licence, the applicant may appeal to the Minister, whose decision is final. The Crown may, where the public interests or public services are or would likely to be affected by any determination of the Central or a District Board, intervene in such proceedings.

Mining Survey.—Act No. 15 provides for the co-operation of this State with the Commonwealth and Western Australia in the making of a geological and geophysical survey of certain areas in the Northern parts of Australia. A sum of £37,500 is appropriated, being the States' contribution—the Commonwealth finding £75,000 and Western Australia £37,500. State representation on the survey committee is provided and officers in the employ of the State will, where necessary, be made available to that Committee.

4. SOUTH AUSTRALIA.

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The Parliament of South Australia enacted 66 Acts during the session of 1935. Twelve of these measures were pure consolidation, reproducing the substance of approximately 150 old enactments. There were also three consolidating and amending Acts of importance, namely those

relating to the Supreme Court, coroners and surveyors. The recent economical depression was responsible for further legislation in the shape of laws dealing with the reduction of public salaries, and with the obligations of tenants, mortgagors and primary producers. There was also the usual crop of amendments to meet current difficulties arising in the administration of old laws. The more important Acts were as follows:

Mortgagors Relief.—Act No. 2197 extends the operation of the Mortgagors Relief Act, 1931. This latter Act and its amendments allowed a mortgagor who had complied with the terms of his mortgage (other than those relating to repayment of principal) to obtain, on application to a local court, an extension of time for repayment of principal. The application had to be made before September 1, 1935, and the effect of every order extending the time for repayment expired on September 1, 1935. The Act of 1935 extends the time for making application until September 1, 1936; and orders for extension made in the past are declared to remain in force for an additional year.

Primary Producers Debts.—Act No. 2200 enacts further provisions for the financial relief of farmers, pastoralists and other primary producers. It empowers the Farmers' Assistance Board, a government authority, to formulate and carry out schemes for satisfying the liabilities of primary producers by a cash composition. Part of the money required for this purpose is to come from South Australia's share of a grant of £12,000,000 made to the Australian States by the Commonwealth for rural rehabilitation. A scheme may provide for paying the unsecured creditors of a producer any amount not exceeding that which they would get by making the producer bankrupt and realizing his estate; but the cash composition to be paid from money supplied by the Commonwealth must not exceed 5*s*. in the pound. Thus, if the producer's free assets were sufficient to pay 4*s*. in the pound, the scheme could provide for a composition of 4*s*. in the pound to be paid by the Board on his behalf and the balance of the unsecured debts would be written off. If, however, the producer's assets were sufficient to pay the creditors more than 5*s*. in the pound the Board could only pay a cash composition of 5*s*. in the pound, and the balance of the debts represented by assets would remain a liability of the producer. In all cases that portion of the unsecured debts not represented by assets will be written off. No scheme can come into operation unless the Board approves of it. In addition, if the scheme provides for a cash composition as explained above, at least 50 per cent. in number and value of the unsecured creditors must vote for it. If the scheme contains no provisions for a cash composition or contains provisions for a cash composition less in amount than that explained above, three-quarters in number and value of the creditors must vote in favour of it. Secured creditors can only rank for dividend in respect of that part of their debts which they elect to treat as unsecured for all purposes. The Act also provides that the Treasurer may release any person from the obligation to repay to the Crown any moneys advanced to him for drought relief.

Dairy Produce.—Act No. 2209 extends for two years the operation of the Dairy Produce Act, 1934. The 1934 Act established the Dairy Produce Board and gave it statutory powers which could be used for the purpose of collecting levies from manufacturers of butter and cheese and using those levies for the payment of a bonus on exports. The Act of 1934 was by its terms due to expire on September 30, 1935, but the amending Act of 1935 extended it until September 30, 1937.

Ministerial and Parliamentary Salaries.—Act No. 2213 continues the reductions in the salaries of Ministers, Members of Parliament and the holders of other Parliamentary offices until June 30, 1936. These reductions were originally made by the financial emergency legislation of 1931, and have been extended from year to year by legislation.

Goods (Trade Descriptions).—Act No. 2214 empowers the Governor to make proclamations requiring that there shall be applied to any goods mentioned in the proclamations trade descriptions signifying the quality, place of origin, method of manufacture or other particulars of the goods. Penalties are prescribed for the application of false trade descriptions to goods. The unauthorized use of the Royal Arms is also forbidden.

Surveyors.—Act No. 2220 consolidates and amends the law relating to the licensing of surveyors. It establishes a Board charged with the duty of conducting examinations and granting licences to surveyors. An applicant may be admitted as a surveyor on passing the Board's examination, or on satisfying the Board that he holds a degree or diploma of any university or other authority recognized by the Board, or that he is qualified to practise as a land surveyor in any part of His Majesty's dominions with a reciprocal arrangement for the recognition of the status of licensed or registered surveyors has been entered into. The Board is given disciplinary power over surveyors and generally is authorized to regulate the professional conduct of surveyors.

Landlord and Tenant (Rent Reduction).—Act No. 2224 extends for a further year the time for making applications to the court for reduction of rent under the Landlord and Tenant (Rent Reduction) Act, 1932. It also provides that every existing order for reduction of rent shall remain in force for four years from the commencement of the principal Act (instead of three years as formerly), or until the expiration of the term of the lease, whichever occurs first.

Statistics.—Act No. 2227 gives the Government Statist power to collect statistics ; and imposes on every member of the public a duty to furnish the Government Statist with the information demanded by him on his official forms. Failure to furnish information is made an offence. The Government Statist is forbidden by the Act to use the powers conferred on him to collect any statistics other than those which he has been obtaining by the voluntary co-operation of the public in the past ; and he must continue to use the forms which have been in use in the past unless they are altered by resolution of each House of Parliament.

Taxation.—No. 2233 is the usual annual Taxation Act which fixes the rates of tax for the current financial year. It also makes important alterations to the system of taxing the incomes of companies, and the dividends received by shareholders. Under the old law companies were taxed at a progressive rate varying from 1*s.* in the pound to 3*s.* 4*d.* in the pound. Dividends were not included as part of the income of shareholders, but were subject to a separate tax of 6*d.* in the pound. Under the new Act companies are to be taxed at a flat rate of 2*s.* in the pound. Dividends are required to be included as part of the tax-payer's ordinary income, but the tax-payer is given a rebate of 2*s.* for each pound of the dividends so included. A number of ancillary provisions are included to provide for the due payment of tax by companies and shareholders.

Licensing.—Act No. 2241 liberalizes somewhat the present laws restricting the sale of alcoholic liquor. It confers upon the holder of a publican's licence the right to sell liquor to *bona fide* travellers at any hour

of day or night. A *bona fide* traveller is a person who within twelve hours before the time when he arrives at the licensed premises has travelled from a place at least sixty miles from those premises measured by the nearest practicable route, and has made a declaration in the prescribed form that he has so travelled. The Act also alters the law relating to permits enabling clubs and associations to obtain liquor after ordinary trading hours at social gatherings on hotel premises. Under the old law every permit expired at eleven o'clock in the evening. The Act provides that the permit will continue until midnight. Under the old law only societies, clubs and other associations could obtain permits. Under the new law individual persons may do so. The power of the publican to sell liquor to persons at the social gathering whilst the permit is in force is put beyond doubt. Another amendment provides, in effect, that restaurant keepers may, for a fee of £15 in the metropolitan area or £10 elsewhere, obtain an annual permit to sell wine and cider with meals between midday and two o'clock in the afternoon, and six and eight o'clock in the evening.

Local Courts.—Act No. 2244 provides that local courts of full jurisdiction shall have jurisdiction in claims up to £750, instead of £500 as formerly. The Act also provides that when an appeal from a local court is heard by a single judge of the Supreme Court an appeal shall lie to the Full Court either by leave of the judge or of the Full Court. The parties to any proceedings in local courts are empowered to waive all or any of their rights of appeal; and there are provisions enabling a judgment given in one local court to be transferred to any other local court, for the purpose of enforcement.

Coroners.—Act No. 2248 consolidates and amends the law relating to coroners. The following are the main alterations made: (*a*) coroners' juries are abolished; (*b*) a coroner is given power to hold an inquest, whether a body is found or not, whenever he is informed that there is reasonable cause to suspect that a person within the State has died a violent or unnatural death, or that a sudden death has occurred of which the cause is unknown; (*c*) it is made unnecessary for the coroner to view the body or the scene of the fire; (*d*) a coroner may order a post-mortem examination for the purpose of deciding whether an inquest is necessary or not.

Industrial Code.—Act No. 2251 provides that wages rates fixed by awards of the Industrial Court and determinations of Industrial Boards shall vary automatically in accordance with any rise or fall in the living wage as declared by the Board of Industry. Formerly, when the Board of Industry declared a change in the living wage the declaration had no effect on the rates of pay prescribed by orders and awards until the court and the Industrial Boards, on application duly made, ordered a variation.

Supreme Court.—No. 2253 is a consolidating and amending Act reproducing with some changes practically the whole of the statute law relating to the constitution and powers of the Supreme Court. The principal new provisions are as follows:

The qualification of judges of the Supreme Court is definitely fixed. (Formerly the law merely provided that a judge must be a "fit and proper person.") A puisne judge must be a legal practitioner of not less than ten years' standing, and the Chief Justice must be a puisne judge or a practitioner of fifteen years' standing. The various jurisdictions of the Court are declared to be similar to the jurisdictions vested in the High

Court of Justice in England at the time of the passing of the Imperial Supreme Court of Judicature Act, 1873.

The general right of appeal to the Full Court from a single judge is restricted in a number of cases prescribed in s. 50.

Circuit courts (which have in the past exercised criminal jurisdiction in country districts) are declared to be sittings of the Supreme Court, and new provisions for facilitating the working of these courts are enacted. The old procedure in the revenue jurisdiction of the court is abolished, and proceedings by way of an ordinary action are substituted. The petition of right is, however, retained.

A new code of law regulating the powers and liabilities of the sheriff and bailiffs is enacted, and new provisions relating to suitors' funds on the lines of those contained in the Imperial Supreme Court of Judicature Act, 1925. Among these provisions is one requiring the Treasurer to make good any deficiency occurring as a result of the misconduct of any officer of the Supreme Court.

Trading Stamp.—Act No. 2255 prohibits those advertising arrangements under which goods are distributed to the public in exchange for articles such as soap wrappers, labels from packets of tea and other similar documents. Penalties are imposed on the person selling the goods containing or contained in the exchangeable documents, the members of the public who collect and offer the documents in exchange for goods, and the persons who accept the documents in exchange for goods.

Veterinary Surgeons.—Act No. 2257 provides for the registration of veterinary surgeons. A Veterinary Surgeons Board is established to deal with applications for registration, to control the conduct of veterinary surgeons and practitioners, and to punish by cancellation or suspension of registration, fine or censure, registered persons who offend against the regulation or commit breaches of professional conduct.

An unregistered person is prohibited from holding himself out as registered or from describing himself as a veterinary surgeon. No other restriction is placed on the practice of veterinary surgery by unregistered persons.

The qualifications for registration under the Act vary according to whether the applicant was or was not engaged in veterinary surgery at the time of the passing of the Act.

A person commencing to engage in veterinary surgery after the passing of the Act can only be registered if he holds a degree or diploma in veterinary science equal in standard to the degree of Bachelor of Veterinary Surgery of the University of Sydney.

A person who has treated animals for disease or injury for at least seven years prior to the passing of the Act as a sole means of livelihood is entitled to be registered as a veterinary surgeon without further examination. As a transitional provision the Act also provides for registering persons as veterinary "practitioners." The following persons are entitled to be registered as veterinary practitioners: (*a*) any person who has treated animals for disease or injury for at least five years before the commencement of the Act as a sole or substantial source of livelihood; (*b*) any person who at the time of the passing of the Act is a veterinary officer of a veterinary lodge; and (*c*) a person who at the time of the passing of the Act is a certified inspector of stock.

Matrimonial Causes.—Act No. 2259 provides that divorce on the ground of confinement in a lunatic asylum or other similar institution may be

obtained whether the confinement was in South Australia or in any other part of His Majesty's Dominions. This Act also provides that orders nisi for divorce will not become absolute as of course, but that an application must be made to the Master of the Supreme Court. Finally, the Act provides that if a woman and her husband are separated by an order of the Court or under any instrument, and at the time when the separation commenced the woman was domiciled in South Australia, she shall, for the purpose of divorce proceedings, be deemed to have retained her South Australian domicile, although her husband may have acquired another domicile.

5. TASMANIA.

[*Contributed by* H. J. Solomon, Esq., B.A., LL.B.]

Acts passed—98.

The usual large number of Acts have been passed during the year, but, again as usual, a large number are appropriation, administrative and semi-private Acts.

The most material event of the year (1936) has been the issue of the first two volumes of the Reprinted Statutes as authorized by the Statutes Reprint Act (No. 94 of 1935). The first of these volumes contains the titles "Acts Interpretation to Constitution" and the second the first part of the title "Courts." The third volume (Courts—Part 2) has since been issued.

Some of the more important of the remaining Acts are reviewed below:

Bush Fires.—Act No. 36 replaces an old Act of 1854. It gives power to the Governor to proclaim fire danger seasons and to the Conservator of Forests and the forestry officers to declare fire danger days. At such times it becomes an offence even to smoke a pipe in the open air within 20 feet of any stack or rick, etc.

Farmers' Debt Adjustment.—The purpose of Act No. 32 is to rehabilitate indigent farmers by providing a fund out of which grants are made to enable them to pay a *pro rata* amount to their various creditors. Proceedings for recovery of debts are stopped by the granting of an order under the Act.

The result of the system has still to be seen, although it may be suggested that the advantage of the Act to indigent farmers is largely offset by the harmful effect upon the credit obtainable by any farmer, and the disinclination of lenders to advance money on agricultural property.

Gaming.—Act No. 31 is part of the consolidation of legislation which is now being pushed forward in this State.

Registration of Deeds.—Act No. 24 repeals the Registration of Deeds Acts previously in force, and consolidates, with certain alterations, the existing law. Land in Tasmania is under the "General Law" system, unless it has been bought under the Real Property Acts. The Real Property Acts provide for what is perhaps better known as a "Torrens Title"—that is, a certificate of title is issued, upon which all subsequent dealings are endorsed. The "General Law" system, to which this Act refers, provides a means of registering conveyances, mortgages, etc., and provides that such documents take priority not according to date of execution, but according to date of registration. Registration is effected by filing a parchment "memorial" which is prepared according to a form specified by the Act, and contains full particulars of the instrument.

Totalizator Act.—Act No. 25 provides for the licensing of totalizators, the collection of a tax, and for the regulation of horse-racing and coursing.

Traffic.—An important provision in Act No. 83 is the compulsion put upon owners of motor vehicles to insure against claims arising from accident.

In addition consolidating Acts were passed dealing with (*inter alia*) Fisheries, Public Health, Infant Welfare, Police Offences and Administration and Probate.

6. VICTORIA.

[*Contributed by* S. H. ZICHY-WOINARSKI, ESQ., M.A., LL.B.]

The First Session of the Thirty-second Parliament is noteworthy from the view-point of political history as being the first occasion on which the Country Party has occupied the Government Benches. Eighty-two Acts were passed. Some of the most important bear unmistakable traces of their provenance and are interesting as experiments in rural rehabilitation. Of the remainder many are of purely local concern, including those relating to the administration of government and those continuing the emergency financial legislation. The annual tribute paid to bureaucracy is to be found in the establishment of additional Boards (*e.g.* Wheat and Wheat Products Board, Opticians' Board, Marketing Boards) and in the extension of the system of licensing. Thirty-two Acts alone are treated below as of special interest.

Dairy Products.—Act No. 4280, continuing the principle of the Dairy Products Act, 1933 (No. 4204), amends some of its provisions. It substitutes a new interpretation of "manufacturer," and alters the principal Act in relation to the determination and promulgation of quotas, the prohibition of the sale of butter and cheese in Victoria in excess of the quota, and some of the administrative provisions.

Wheat Growers' Relief (Commonwealth Payment).—No. 4281 provides for the application of the fund granted by the Commonwealth Wheat Growers' Relief Act, 1934–35, in payments among the wheat growers of Victoria at the rate of three shillings an acre sown with wheat for grain during the year 1934.

Public Works Committee.—No. 4288 establishes a body empowered to investigate any proposed public works referred to it by the Governor in Council. It repeals the Railway Standing Committee Act, 1928 (No. 3761) and, in effect, clothes the new committee with the powers of that body as well as with power to investigate and report on all kinds of public works capable of being undertaken by any of the public departments or public authorities in the State.

Companies (Special Investigations).—No. 4293 re-enacts No. 4224 (which was limited to twelve months in its operation) with an additional provision that when the affairs of a company are being investigated pursuant to the Act certain actions and proceedings in respect of contracts, bills of exchange and promissory notes shall be stayed unless the Attorney-General otherwise directs. Like its predecessor its duration is twelve months.

Seeds.—No. 4294 aims at the protection of the farmer by attempting to ensure that buyers of seed shall get that which they agree to buy. This is effected by requiring a statement to be written or printed on every parcel of seeds sold, setting out the name and address of the vendor, the kind or strain of the seeds and that the seeds are for planting or sowing ;

and by making provision for certification schemes for testing and certifying to the strain of any kind of seeds and prohibiting the use of the words "certified" or "disease-resistant," etc., in respect of seeds unless such seeds have been so certified under a certification scheme under the Act or under an approved scheme outside Victoria. Important from the point of view of the law of contract is the provision by which any statement in an invoice, etc., that seeds are certified or disease-resistant is to constitute a warranty that the statement is correct. Further, the Minister of Agriculture is charged with the administration of the provisions of the Goods Act relating to merchandise marks so far as they relate to seeds.

Fungicides.—No. 4295 amends the Fungicides Act, 1928 (No. 3688), by extending the classes of substances which are fungicides, insecticides, vermin destroyers or weed destroyers under that Act. Further, it provides for the registration of fungicides, etc., by wholesale dealers, for distinguishing marks to be used in connexion with fungicides, and for publication of lists of registered fungicides. Following the same scheme as in the Seeds Act (*supra*) particulars marked on any package are made to constitute a warranty. Proceedings for breach of the Act are to be taken against the actual offender where the person selling any fungicide has used all diligence to observe the provisions of the Act.

Transport Regulation.—No. 4298 contains amendments of the principal Act (No. 4100 as amended by No. 4198). In addition it introduces an important principle of transport regulation by providing that decisions of the Transport Board in granting or refusing licences under the principal Act shall not take effect until reviewed by the Governor in Council.

Financial Emergency (Salaries and Pensions) Continuation.—No. 4304 is noteworthy inasmuch as though it continues some of the provisions enacted as a result of financial stringency, it makes a partial restoration of certain salaries and pensions.

Maintenance and Alimony (Imprisonment).—No. 4314 is in line with the observations as to wife maintenance and affiliation orders contained in the Report of the departmental committee appointed by the Home Office in Great Britain (June 1934). In effect it removes the liability of husbands and fathers to commitment to gaol for disobeying orders for payment of maintenance, etc., except where the principle of the Imprisonment of Fraudulent Debtors Act is applicable.

Land (Residence Areas).—No. 4319 deals with certain local conditions relative to mining. It aims at overcoming difficulties which have arisen in connexion with the occupation of Crown lands as residence sites by the holders of miners' rights. Interesting though they be, these difficulties are peculiar to the industry and to its local regulation. In addition to clearing up such questions the Act goes further and attempts to place the regulation of the system on a regular basis in the proper control of a responsible body. Consequential provisions to effect this administrative change follow.

Auction Sales.—No. 4323 relates to the "splitting of lots" at cattle sales. In form an amending Act, it makes the definition of "cattle" to mean "horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, ewes, wethers, rams, lambs and swine," and makes it an offence to induce a person to abstain from bidding at a sale by auction of cattle by a promise to split any lot purchased thereat. It provides

that the name of the actual successful bidder for any lot of cattle at an auction sale shall be entered in the auctioneer's books, except where immediately after the sale the successful bidder informs the auctioneer that he bid for such cattle on behalf of a named principal. The auctioneer is required to read aloud before the beginning of such a sale a statement of the material parts of the Act.

Justices.—No. 4324 amends the principal Act (No. 3708) in some particulars. It makes provision for the enforcement in any court of petty sessions of an order made in any other such court ; it alters the machinery provisions relating to the sale of distress and prohibits a judgment creditor from buying in at such a sale ; and, lastly, it makes discretionary instead of mandatory the power of a court of petty sessions to release from custody an appellant to the court of general sessions on his entering into a recognizance.

Farmers' Debts Adjustment.—No. 4326 is the kernel of the legislation passed in the session for relieving the primary producer. Giving him actual assistance in his operations (as in No. 4338 *infra*) or in the marketing of his products (as in No. 4337 *infra*) are merely auxiliary measures. The duration of the Act is limited to six years. Part I establishes a Farmers' Debts Adjustment Board which supersedes the Farmers' Relief Board appointed under Act No. 3961. The provisions of Part II are lengthy and complex. In addition to the Board, conciliation officers are appointed. The Board is charged with the central administration and the conciliation officers, under the control and direction of the Board, with the local administration of the Act (Division 1). Division 2 deals with debt adjustment plans. It makes provision with respect to applications by farmers for debt adjustment, the issue and expiry of stay orders, the nature and effect of stay orders (including the staying of certain actions against the farmer or his assets or against guarantors, predecessors in title, etc. It prescribes (*a*) the duties of conciliation officers, and these include the obtaining of information, the valuing of assets, the calling and supervising of meetings of farmers and creditors to consider plans of debt adjustment and the submission of plans to the Board with a report thereon ; and (*b*) the powers and duties of the Board in this event, and these include power to confirm or to refuse to confirm or to annul plans, the transmission to conciliation officers of modified plans, and matters to be considered by the Board in these events are also set out—the interest of all parties concerned, the relative rights of secured and unsecured creditors, the nature and value of the farmer's assets, etc. Further, it provides for the submission to farmers and creditors of modified plans, the amendment of modified plans by the Board and the submission thereof to the farmer and his creditors, the binding effect of plans and modified plans agreed to by all creditors present and of modified plans agreed to by a majority in number and value of unsecured creditors present, including provision for the modification and suspension of rights and remedies of secured creditors who have not agreed. This Division is completed by provisions in aid of the general scheme by which when a guaranteed debt of a farmer is adjusted, the liability of the guarantor is to be adjusted accordingly ; the Board is empowered to guarantee payment by a farmer to a creditor of interest ; farmers are required to keep records of receipts and expenditure during the operation of stay orders, and trustees who agree to plans of debt adjustment are protected. Division III deals with financial matters relative to carrying out the Act ; Division IV authorizes a county court

judge to deal with questions referred to it by the Board; and Division V contains some miscellaneous—but drastic—provisions, *e.g.* making void any disposal or encumbrance of property by a farmer during the operation of a stay order without the consent of the Board or a conciliation officer, and making void any agreement to prevent the farmer from obtaining the benefit of the Act except as to a debt incurred after the commencement of the Act where the farmer expressly negatives the operation of the Act and lodges an acknowledgment to that effect in the prescribed form within twenty-one days after execution.

Local Government (Preferential Voting).—The effect of No. 4329 is to substitute a complete scheme of preferential voting to be used at elections for all municipalities for the existing discretionary power of the Governor in Council to make orders applying compulsory preferential voting to elections of councillors for any municipality.

Country Roads (Impounding of Cattle).—No. 4332 deals with some local grazing conditions. It makes it an offence to allow cattle to wander on, or, except in certain conditions, to graze on any part of a state highway, and permits the impounding of cattle so found. It is additional to such legislation as already exists in this respect, and in effect it makes the Country Roads Board a further impounding authority.

Health.—No. 4333 contains a number of heterogeneous provisions, amending and otherwise. It deals (*a*) with plumbing and gas-fitting, enabling the Governor in Council to set up a Plumbers and Gas-Fitters Board and to prescribe its powers and duties, and in effect substitutes more comprehensive provisions relating to the registration of plumbers and gas-fitters and their work; (*b*) with public hospitals for infectious diseases (on the administrative side); (*c*) with foods, drugs, etc., and in this connexion, by requiring, *inter alia*, the registration of every manufactory of margarine, continues the offensive against allowing margarine to masquerade as butter. It amends also the existing provisions prohibiting the use of barium, etc., in textile substances for human clothing, and (*d*) with the grazing of cattle on land on which night-soil or sewage has been deposited, and prohibiting the removal of cattle from sewerage farms, except for the purpose of immediate destruction for purposes other than human consumption.

Parliamentary Elections (Railway Employees and Civil Servants).—An important principle is contained in this short Act, No. 4334. By virtue of it persons employed in the public service or railway service are made eligible for election to either of the two Houses of the State Parliament, but on election such employment ceases. Previously resignation was required before nomination. It is noteworthy that twice previously, in 1923 and in 1926, a similar Bill was passed by the Assembly, but rejected by the Council.

Cinematograph Films (Australian Quota).—Designed to stimulate and protect the film industry locally, No. 4335 prescribes for a period of five years the minimum quotas of certain Australian films to be acquired by film distributors and to be exhibited by film exhibitors. Ancillary provisions relax such quotas where it is not commercially practicable to observe them; provide for the determination by arbitration of disputes as to the price for the supply of any such film; empower exhibitors to reject for the purpose of complying with the Act films they have contracted to accept and generally to reject 25 per cent. of foreign films contracted for. Further, the Act declares void any agreement requiring

an exhibitor who takes an Australian film to take any other film, and provides for the appointment of a Films Adviser and for the registration of exhibitors, distributors and producers of films.

Sheep Owners' Protection.—No. 4336 is designed to protect sheep owners against sheep stealing, more particularly when animals are conveyed by motor transport. To effectuate this the Act introduces a system of travelling sheep permits to be granted by the Minister, and provides the necessary machinery. Further, to effectuate its object it also requires sheepskin buyers to be licensed and to comply with certain other conditions.

Marketing of Primary Products.—No. 4337 is a piece of legislation novel to this State. The Act is based largely on a Bill drafted in 1930, which was based on New South Wales legislation, which in turn was derived from Queensland. It is an attempt to constitute a system of orderly marketing, or, according to its opponents, of disorderly marketing. It is divided into three parts, of which for present purposes the first part is the most important. This part enables the Governor in Council by proclamation to declare commodities to be products for the purposes of the Act ; and an extensive interpretation is put upon products so as to mean " any product (other than wool, fresh fruit, not being pears or apples or citrus fruit, and hay) of agriculture, horticulture, viticulture, grazing, poultry-farming, bee-keeping or fishing operations and any dairy produce (including bacon and pork) ; and any other article of commerce prepared (otherwise than by any process of manufacture) from the produce of agriculture, horticulture, viticulture, grazing, poultry-farming, bee-keeping or fishing operations." The scheme adopted is to authorize the Governor in Council to make a proclamation on the result of polls of producers as to whether a marketing board should be constituted for any particular commodity ; and the machinery for this is provided. Following on this, the appointment of marketing boards is provided for, and the provisions incidental thereto duly enacted. Then extensive and detailed clauses make provision for the vesting of commodities (with certain exceptions) in and the delivery thereof to the boards, the marketing of commodities together with the powers of the boards in connexion therewith and the distribution by way of advance and final payments of the proceeds of the sale of commodities among the producers or other persons entitled. In furtherance of its object the Act declares void contracts relating to the delivery or sale of any commodity in Victoria made after the application of the Act to the commodity, and empowers the Victorian Railways Commissioners, common carriers and certain others to refuse to carry any commodity when so requested by the particular board. Miscellaneous provisions complete this part, whereby protection is given to the board against certain claims, notification is required to be given of encumbrances on commodities and claims by encumbrancers, and the board is empowered, with the approval of the Governor in Council, to make levies for certain specified purposes.

Part II provides for the collection and publication of official marketing information ; and Part III deals with the usual variety of ancillary matters such as penalties, procedure, evidence and the making of regulations.

Farmers' Advances.—No. 4338 belongs to that group of Acts passed in the Session to carry out the Government's policy of assisting the primary producer, and goes further in this direction than any previous legislation. The Act is to be administered by the Closer Settlement Commission. It

provides for advances and guarantees by the Commission to or on behalf of farmers for (*a*) the purchase of live stock or farm implements or farm machinery for the purpose of replacement; (*b*) the purchase of goods necessary for carrying on farming operations; (*c*) farm wages; and (*d*) living allowances; prescribes the conditions on which and the consents and notices necessary before such advances may be made, and specifies the securities on which the repayment of such advances and of advances already made under Cultivation Advances Acts are to be secured. For the purpose of giving such securities perpetual lessees, conditional purchase lessees and selection purchase lessees are enabled to mortgage their leases. Further, the Act modifies the provisions of the Instrument Acts so as to give priority to all crop liens given under the Act, to permit crop liens to be given under the Act on crops not in existence and on the crops of two succeeding harvests, and so as to relax the operation of the Instrument Acts with respect to certain bills of sale and assignments of book debts given under the Act. To protect the securities given under the Act to the Commission, it restricts mortgagees, etc., from exercising rights whereby the securities might be imperilled; and provides that the property in live stock, implements, etc., advanced by the Commission is to remain in the Commission till paid for. The scheme of the Act is completed by certain ancillary and administrative provisions, by which penalties are imposed for improperly obtaining or using advances; advances are to be made from unexpended moneys raised under the Cultivation Advances Acts and from further money raised under this Act; repayments are to be paid into the State Loans Repayment Fund and repayments are to be credited first in respect of interest owing; lastly, provision is made for writing off certain debts under this and other Acts.

Dairy Produce.—No. 4349 is an amending Act. Its object is to prevent the existing overlapping and duplication in relation to butter factories. This is effected, in substance, by providing that factories are to pay uniform prices for the same grades of milk and cream on the same day; by empowering the Minister, on the recommendation of the Dairy Produce Board, to refuse or cancel licences for factories in certain cases, and by increasing the penalties for certain offences.

Legislative Council Elections.—No. 4350 provides some reforms relative to the Upper House of the Victorian Legislature. The Act is divided into three parts. Part I empowers the Governor in Council by proclamation to alter the boundaries of divisions of electoral provinces. Part II deals with the machinery of elections; its main provisions relate to the appointment of divisional returning officers of the Commonwealth and their clerks as electoral registrars and deputy electoral registrars respectively for divisions of provinces; amends the Constitution Act Amendment Act, 1928 (No. 3660) by abolishing electors' rights and ordinary lists and adds rolls for the Legislative Council elections by substituting therefor general rolls. The important section of Part III is that which provides for compulsory voting with respect to Legislative Council elections. This part also contains amendments of provisions in relation to absent voting and postal voting.

Road Traffic.—No. 4352 is one which, if reports that reach this country are credible, would go far to gladden the heart of Mr. Hore-Belisha. It gives the Governor in Council, with the consent of the municipalities concerned, power to make regulations with respect to road traffic in the

metropolitan area. Such regulations are to have a paramount effect over any other regulations or by-laws. The result has been the proclamation of an elaborate Traffic Code throughout the city and the suburban municipalities.

Motor-cars.—No. 4353 contains some amending provisions. In addition, it allows for the half-yearly registration of cars, instead of annual registration alone, and prohibits unauthorized persons from attending to the parking of motor-cars.

Wheat and Wheat Products.—No. 4354 has as its object a home consumption price for wheat. The Act is a link in the chain of legislation made by the Farmers' Debt Adjustment Act, the Marketing of Primary Products Act and the Farmers' Advances Act. Politically it has quite a history, inasmuch as the scheme it embodies is not a scheme drawn up by the Victorian Government, but one suggested by the Commonwealth Government, consequent upon an agitation for the repeal of the flour tax. Of the States, New South Wales, Queensland and Victoria have accepted the Commonwealth's suggestion. In view of the recent decision of the Privy Council in *James* v. *The Commonwealth*[1] its validity may be open to doubt.

The scheme of the Act is one that has now come to be usual. It provides for the appointment, constitution, proceedings and powers of a board to be called the Victorian Wheat and Wheat Products Board, and for the licensing of " receivers of wheat." Every first delivery in the course of intra-State trade of wheat grown in Victoria (with certain exceptions in the case of wheat for seed or for stock or poultry feed) is required to be made by the wheat grower to a licensed receiver. From that beginning the rest of this extensive Act follows. Its outline is this : Information concerning the wheat is required to be given to the receiver, who is to give to the wheat grower a receipt for the wheat and furnish the Board with a copy of the receipt and of such information. The Board is required to prepare in respect of all wheat delivered to receivers home consumption warrants and export warrants in accordance with a proportion determined by the Minister after consultation with the Board, to issue the export warrants (which are made after endorsement transferable by delivery) to the growers or other persons entitled, and to retain the home consumption warrants until purchased from or through the Board by processors of wheat. A wheat processor is forbidden to sell wheat products within Victoria in excess of the quantity manufactured by him from wheat for which he has purchased home consumption warrants from the Board. The Act makes the necessary provision for the distribution among growers or other persons entitled of the proceeds of wheat or warrants sold or disposed of by or through the Board after making allowance for expenses, etc. ; and the scheme is completed by ancillary provisions requiring certain records to be kept, protecting encumbrances and imposing penalties, etc.

County Court (Judges Retirement).—No. 4355 introduces a new principle into the tenure of judges of the County Court Bench. By the principal Act (No. 3663) every judge who attains the age of seventy years and every judge who in the opinion of the law officer is unable from weak or failing health to perform efficiently the duties of his office may be called upon by the Governor in Council to retire. This Act renders retirement at seventy-two obligatory in all future appointees.

[1] (1936) 55 C.L.R. 1 ; [1936] A.C. 578 ; 52 T.L.R. 696.

Justices of the Peace.—No. 4356 enacts in substance that after attaining the age of seventy-two no future justice shall exercise judicial function. Power to exercise certain ministerial functions is reserved to him. Similarly persons of the same age are made incapable of acting as special magistrates in the children's courts or as coroners.

Opticians' Registration.—By No. 4357 opticians are required to be registered, and a Board constituted to carry out the necessary administrative judicial functions. The constitution, proceedings and powers of the Opticians' Registration Board are provided in what is becoming the usual manner, and the powers conferred are the usual wide powers of a professional board. The substance is to require the registration of certified opticians. Medical practitioners are exempted from the provisions. There is no point of novelty.

Police Offences (Contraceptives).—No. 4358 prohibits the indiscriminate exhibition of contraceptives and the publication of advertisements designed to promote their sale and distribution. In the face of judicial decisions that such articles are not obscene, nor the advertising of them an obscene publication, the general police offences legislation against obscene publications and the sale of obscene articles were ineffective in this regard. Contraceptive is defined to mean "any contrivance or appliance for securing or reputed to secure by the use thereof before, during or after sexual intercourse between human beings that such intercourse may take place without resulting in or with less likelihood of resulting in conception, and includes any substance which is or is reputed to be effective or of use for that purpose." The Act prohibits certain advertisements intended to promote the sale or disposal of contraceptives, and their exhibition or sale in any street or public place, as well as their hawking and gratuitous delivery by shopkeepers. Certain *bona fide* medical or pharmaceutical publications are exempted, as well as certain sales or disposals under medical orders; but in prosecutions under the Act the burden of proving that the exemption applies is on the defendant.

Mines (Petroleum).—No. 4359 is for this State an original and important Act of its class. Its purpose is to assist in the search for oil throughout the State. Up till the present mining for oil has been carried on under the provisions of the Mines Act (No. 3737), which was not framed to cover such a form of mining. The search for oil, begun in 1911, has had no special legislation to aid it, and the Act deals with the problems peculiar to that kind of industry. In its seven parts it makes a lengthy measure. Part I in substance provides that no further leases for mining for, or licences to search for, petroleum are to be granted under the Mines Act, and makes provision for such leases and licences already granted. By Part II, all petroleum on or below the surface of the land in Victoria is and shall be deemed always to have been the property of the Crown, but certain rights with respect to petroleum deposits are given to owners of land alienated from the Crown on or before March 1, 1892; in future grants, leases, etc., of Crown land petroleum, etc., is to be reserved. The Minister of Mines in times of war or national emergency is empowered to obtain, refine and dispose of petroleum, and for that purpose to occupy land (subject to payment of compensation in certain cases), and on the same terms to resume land. To the Governor in Council is given the right of pre-emption of petroleum produced by lessees and licensees and of its products.

Part III contains general provisions relating to the issue of petroleum prospecting licences and petroleum mineral leases.

Part IV contains specific provisions relating to petroleum prospecting licences, including *e.g.* marking out of land, applications, licence fees, royalties, geological surveys, drilling, compensation, etc.

In Part V are contained specific provisions relating to petroleum mineral leases, including *e.g.* granting of reward leases, surveys, marking out of land, applications, rent and royalties, surrender and forfeiture, etc.

Part VI contains specific provisions relating to licences and leases ; and Part VII consists of miscellaneous provisions in relation to reports, offences, regulations, etc.

Workers' Compensation.—No. 4360 contains some important amendments of the law. By it the limit of the Act is extended to embrace as a worker those earning up to £400 a year (instead of £360). The minimum period of disability for which an employer is liable to pay compensation is reduced from a week to three days. The liability of an employer to pay compensation is increased by a liability for ambulance, medical and hospital fees up to £5. Further, the Act increases in general the amount of compensation payable upon the death or incapacity of workers, in the former case from £680 to £750 ; extends the time within which claims for compensation may be made under the Act ; and increases the penalties for failure by employers to insure.

7. WESTERN AUSTRALIA.

[*Contributed by* C. E. Stow, Esq.]

Forty Acts were passed during the fourth and final session of the Fifteenth Parliament in 1935, but the majority of them are not of general interest since they provide merely for continuance of temporary legislation, for minor amendments of existing Acts, or for other matters of local importance only. The following are the principal Acts passed.

Northern Australia Survey Agreement.—Act No. 3 ratifies an agreement between the Commonwealth and the States of Queensland and Western Australia to co-operate in the conduct of a geological and geo-physical survey of certain areas in the Northern parts of Australia.

Trustees Powers.—Act No. 4 relieves a trustee (including a legal personal representative) of liability for a breach of trust by reason of having voted for or been a party to an agreement under the Farmers' Debts Adjustment Act, 1930–34. The purpose of the Act is to facilitate participation by trustees in arrangements for the adjustment of the affairs of distressed farmer debtors and it is directed mainly to schemes for writing down by way of composition or for suspension for a period of the debts of farmers.

Industrial Arbitration.—The Industrial Arbitration Act, 1912–25, has been amended by two Acts passed during the session. The first of these (No. 6) is the result of a decision by the Court of Arbitration that an industrial union could not alter its constitution (by which is meant qualifications for membership, objects of the union and area of operations) by simply amending its rules and registering the amendments. The Act enables the Court or the Registrar to make orders validating registrations of unions including registrations of rules or amendments to rules, but the Court or the President may impose terms to safeguard the interests of other unions. The orders are to have retrospective effect. The Registrar

is precluded from registering any amendment of rules which has or might have the effect of altering the constitution of a union, and any application for registration of such an amendment must be referred to the President for decision.

The second Act (No. 31) gives government servants a right of access to the Court of Arbitration for settlement of their grievances in connexion with their employment. Although the Act is far-reaching in the change of conditions which it brings about, it does not have the effect of applying the ordinary jurisdiction of the Court of Arbitration to government servants but rather gives to the Court a special and additional jurisdiction which is modelled on the lines of the ordinary jurisdiction, but differs therefrom in some important respects. Heads of Departments cannot be punished by the Court for breaches of awards, but the Court may report any such breach to the Governor in Council and the breach must then be corrected.

Cremation.—The Cremation Act, 1929, is amended by No. 8 to enable the Governor in Council to grant a licence to the controlling authority of a cemetery an association of a particular kind to use and conduct a specified crematorium. The amendment also regulates the use of grounds set apart for cremation purposes and prohibits the removal of the ashes of a cremated body from a crematorium except under licence or for burial on the site of the crematorium.

Plant Diseases.—The principal provision of Act No. 10 is that requiring the registration of every orchard in which one or more fruit trees or fruit vines are growing. The registration fees together with any other moneys appropriated by Parliament for the purpose are to be paid into a specified fund to be used for the control, prevention and eradication of fruit fly pest. The Minister for Agriculture is authorized to declare by notice that any defined area is infested with a particular plant disease and every owner or occupier of an orchard within that area must then take the prescribed measures to control the disease notwithstanding that the disease may not exist in his orchard.

Brands.—The Brands Act, 1904–32, is amended by No. 13 in a number of particulars with a view to minimizing sheep stealing, and facilitating investigation of cases of sheep stealing. Most of the amendments deal with the method of branding. It is an offence to be in the possession of sheepskins from which the ears have been removed or mutilated, but an agent obtaining such skins in the course of his business can put up as a defence that he took reasonable precautions to prevent them coming into his possession and that he promptly reported possession upon becoming aware thereof. It also is an offence to remove sheep from a run or be in possession of sheep in the course of such removal if the sheep are not legibly marked with a wool brand. Inspectors and police officers are given wide powers to search conveyances or boats for stock and skins of stock and to seize for the purpose of evidence any stock or skins which may afford evidence in connexion with any suspected breach of the Act.

Droving.—Act No. 14 contains a number of provisions intended to improve the existing law regulating the droving of live stock from one place to another. These provisions are chiefly amendments of the existing rules regarding notices and waybills in respect of travelling stock and do not introduce any new principle. A new provision makes it necessary —in certain cases—for a vendor of sheep to supply and a purchaser to

receive a statement in the prescribed form before removal of the sheep pursuant to the sale, and this statement must be preserved for a period and produced to an authorized person on demand. Another provision makes it necessary for travelling stock to be legibly branded with a wool brand.

Health.—Hitherto, at any poll of owners of land for the purpose of deciding whether or not a loan shall be raised by a Local Health Authority for health purposes, all owners within the district have been eligible to vote, notwithstanding that only portion of the district is to be served with the works to be carried out with the proceeds of the loan and that that portion only will be subject to loan rates. Act No. 16 now provides that the poll should be taken only amongst resident owners of land in the portion of the district to be served by the works.

The Act also empowers a local authority to increase the instalments of an owner, who has entered into an agreement to pay the cost of drainage works, where the amount of waste-matter discharged into a sewer is greater than estimated at the time of the agreement. If the owner is dissatisfied, he may require the question of fairness of the increase to be decided by arbitration. The provision applies retrospectively as well as prospectively.

Rural Relief.—On general principles, the Rural Relief Act, No. 17, is similar to Acts passed in other Australian States. Its main purpose is to provide for the administration of a Rural Relief Fund consisting of moneys made available by the Commonwealth to the State for the relief of farmers and others engaged in rural industries. The scheme of the Act is to enable the trustees of the fund to make advances to farmers to carry out schemes for writing down of their debts under the provisions of the Farmers' Debts Adjustment Act, 1930–34. The latter Act provides the machinery for writing down of debts with a view to giving over-burdened farmers some prospect of making good, while the Rural Relief Act makes available the funds with which cash payments by way of composition can be made to creditors. The trustees must be of the opinion that the applicant for an advance has a reasonable prospect of carrying on his operations if assisted, that he has not, by his past conduct in farming operations, shown himself to be undeserving of assistance and that a reduction of his liabilities is necessary to enable him to carry on with reasonable prospect of success, and they cannot make advances for the payment or settlement of Crown debts or statute-barred debts, but otherwise they have unfettered discretion with regard to advances. Advances are repayable by instalments and are secured over all the present and after-acquired assets of the farmer by a mortgage or charge in the prescribed form. Registration of mortgages and charges is not necessary, but notification is to be sent to the Registrar of Titles, the Registrar of Deeds and the Registrar of the Supreme Court, who must record the same in the prescribed manner. In any case in which a proposal for writing down or suspension of a farmer's debts has been rejected by the creditors, the trustees may, if the farmer is in their opinion deserving of protection, suspend all or some of his debts for a period not exceeding three years. This can be done by means of a stay order which can be extended, but cannot operate for a total period of more than four years. If the trustees so decide, interest shall not be chargeable on a debt during suspension under a stay order notwithstanding any agreement to the contrary.

Financial Emergency.—Act No. 19 repeals all the operative provisions of the Financial Emergency Act, 1934, except those dealing with the

reduction of mortgagors' interest. As amended, the principal Act is continued till the end of 1936.

Metropolitan Whole Milk.—An amendment (No. 27) of the Metropolitan Whole Milk Act, 1932, contains a number of provisions aimed at enlarging the control of the Metropolitan Milk Board over the sale of milk within the district in which it operates, but the provisions are mostly to overcome difficulties which have become apparent in practice and are not of general interest. Provisions relating to the issue of licences have been repealed and replaced by more drastic provisions which prohibit the carrying on of business as a dairyman in any dairy area, the carrying on of business as a milk vendor in any district and the treating of milk intended for sale in the metropolitan area without the authority of an appropriate licence. A dairyman need not obtain a licence if he proves to the satisfaction of the Board that the milk produced by him is not sold or intended for sale in the metropolitan area. A number of kinds of licence is provided for, the main heads corresponding to the prohibitions above referred to, but a milk vendor's licence may be in one of four forms, which seem to cover all usual methods of retailing of milk or cream. The amending Act gives a right of appeal to a magistrate in case of the refusal of a licence. It is an offence for an unlicensed dairyman to sell or offer to sell milk to a licensed dairyman in connexion with the latter's business or for a licensed person to obtain milk for sale or treatment under his licence from any unlicensed person.

Public Service.—The Public Service Act Amendment Act, No. 28, and the Public Service Appeal Board Act Amendment Act, No. 29, are consequential to the Industrial Arbitration Act Amendment Act (No. 2). The former provides that in case of repugnancy between the Public Service Act and the Industrial Arbitration Act the last-mentioned Act shall prevail, while the latter limits the jurisdiction of the Public Service Appeal Board.

Limitation.—Act No. 35 does not introduce any new principles of law. It consolidates the law relating to limitation of time for commencing actions and suits, which law was mainly contained in Imperial Statutes which were introduced on the founding of the Colony, or were subsequently adopted. These Statutes included 21 James I, c. 16 and 3 & 4 William IV, cc. 27 and 42.

Supreme Court.—Act No. 36 is another consolidation measure. It repeals more than forty Acts covering a period from the very early days of the Colony to 1929 and re-enacts the provisions with a few amendments of not very great importance. The consolidation provides for the constitution and jurisdiction of the Supreme Court and the Administration of Justice and it contains a number of rules of law and equity based on those in the Supreme Court of Judicature Act. As the Supreme Court of Western Australia was originally founded by statute, with powers corresponding to those which the English Court exercised, the draftsman, no doubt, found his task a delicate and difficult one, but his work seems to be justified by the resulting convenience to legal practitioners and others. The Act provides that the decision of the majority of the judges of the Full Court shall be the decision of the Court. If the Full Court consists of only two judges and they differ in their opinions on an appeal, either party may require the appeal to be reheard before three judges, but otherwise the decision appealed against remains unchanged. If the appeal is against a decision other than of the Supreme Court, the judges may, of

their own motion, order that it be reheard before three judges. In the case of an equal division of opinion on an appeal heard before more than three judges, the opinion of the Chief Justice or of the senior judge present shall prevail.

Native Flora Protection.—Act No. 37 repeals the Native Flora Protection Act, 1912, and substitutes new provisions. Wild flowers and native plants may be protected by proclamation in any part of the State, and any person who picks a protected flower or plant within the proclaimed area, except on private land, commits an offence. The sale of protected flowers and plants is prohibited, but it is a defence to prove that the picking took place outside proclaimed areas. The destruction or mutilation of certain native plants on Crown or public lands is prohibited, but it may be proved as a defence that the matter was the result of an accident. The sale or possession of a wild flower which shows evidence that the mother plant was destroyed or mutilated is also prohibited. Licences to pick for scientific purposes may be issued.

Bulk Handling.—Act No. 40 grants to a company, named Co-operative Bulk Handling Limited, the sole right, for twenty years, of receiving wheat in bulk at railway sidings where the company has installed bins under the Act and the sole right to contract or arrange for the handling, transport by rail and delivery of such wheat in the State. These rights are subject to some exceptions, but the effect of the Act is virtually to give the Company a monopoly in connexion with the handling of wheat in bulk as distinguished from bagged wheat. It should be explained, however, that the company was formed with a view to assisting wheat growers and not for private gain and was operating in bulk handling without competition when the Act was passed. The exclusive rights given to it are, therefore, not as startling as might appear at first sight, and it can be regarded as a public body charged with the carrying out of a public purpose. The Minister controlling the Act is given rather wide powers in connexion with the installation and upkeep of bins and bulk handling equipment by the company. Amongst other things, he can compel the company to install bulk handling facilities at certain railway sidings, his consent is required before a new country bin can be installed and the plans must be approved by him. He can make alterations to the plans and approve them as altered. The company and its officers (subject to certain exceptions resulting from the peculiar membership of the company at the time of the passing of the Act) are precluded from trading in wheat, but the company can buy wheat to make up shortages in out-turn or sell wheat which is damaged or which represents excess of out-turn. They are also forbidden to discriminate between users of the bulk handling facilities, to canvass on behalf of a wheat buyer or to disclose information which might place any person at an advantage over a user of the facilities, and if any officer or agent of the company is found to have contravened this prohibition he must be dismissed forthwith and the company is authorized to dismiss him notwithstanding the terms of service.

Moneys resulting from an excess of out-turn of wheat are to be paid into a special fund to meet shortages of supplies in the future. If the company has insufficient wheat to meet its obligations to deliver, it must pay for undelivered wheat at the wheat merchants' average buying price at the material time, but the payment does not preclude recovery of future damages.

The company is not released from liability for conversion of wheat,

although innocent, but, in the case of innocent conversion, it has a right of indemnity from the deliverer if the latter has been guilty of wrongful conversion. The company is relieved from liability for failure to deliver resulting from act of God or other unforeseen circumstances not attributable to negligence, and the loss in such cases is to be born by the warrant-holders proportionately.

The receipt of wheat does not give the company any proprietary right in the same or render the same liable to execution for the company's debts, but it is to be regarded as a custodian for reward and the wheat held is to be deemed to belong to all persons entitled to delivery of wheat from the company.

A warrant is to be issued for wheat delivered to the company, and this is a negotiable instrument transferable by endorsement, but every endorsee takes subject to the interests of lien-holders and others having a title to or security over the wheat in respect of which it was delivered. The original deliverer of the wheat, the person obtaining the warrant and every person to whom it is negotiated are liable to the true owner of the wheat the subject of the warrant as if they had received the actual wheat.

Subject to the provisions of the Act, the holder of the warrant is entitled to receive an equivalent quantity of sound wheat of a grade at least equal to that in respect of which the warrant was issued, but not the identical wheat. The Act contains a number of provisions intended to bring about smooth working of the scheme, and to prevent change in the constitution of the company, but the above summary describes the main framework. In the ordinary course the practice is for the farmer to deliver his wheat to the company and then sell his warrant to a buying merchant. The merchant accumulates warrants until he desires to export and then he surrenders them for the wheat represented by them, which is delivered by the company into the ship's holds.

8. PAPUA.

[*Contributed by the* Hon. Mr. Justice R. T. Gore.]

In the year 1935, 18 Ordinances were passed, of which the following may be noted:

Marriages.—No. 3 amends the Marriage Ordinance, 1912–16, by repealing s. 17. This section provided a limitation of hours for the celebration of marriages. This limitation was not warranted by the conditions of the Territory and was often a burden.

Criminal Code.—No. 4 adds provisions to the Criminal Code in obedience to the International Convention with regard to white slave traffic and obscene publications.

Rubber Growers.—No. 5 provides for the application of sums granted out of the Revenues of the Territory for the assistance of rubber growers. At the end of each month an amount from the authorized sum is made available for the assistance of rubber growers. This amount is equal to the sum by which the Revenues of the Territory have been increased in that month by the monthly grant from the Commonwealth of Australia in respect of customs duty on Papuan rubber imported into Australia. The rate of assistance for each pound of rubber exported to Australia in any specified month or months is to be the rate the Treasurer declares by notice in the *Gazette*. Any excess of the amount required shall be available in subsequent months. Penalties are provided for breach of the Ordinance

or regulations. The Lieutenant-Governor has power to reject applications for assistance. The Lieutenant-Governor and the Treasurer and all other officers are indemnified against all claims and liabilities. Power is given to make regulations.

Native Emigration.—No. 6 places emigration restrictions upon aboriginal natives of the Territory. No native shall leave the Territory or, except as provided in the Native Labour Ordinance, 1911–33, be removed from the Territory without the permission in writing of the Lieutenant-Governor in Council. Such permission may be given subject to such conditions as the Lieutenant-Governor in Council may impose. A native who leaves the Territory contrary to the provisions of the Ordinance, and any person who removes or assists in removing any native contrary to such provisions, is liable upon summary conviction to a fine not exceeding £50 or 6 months' imprisonment.

In proceedings for an offence, the negative averments of the prosecution shall be deemed to be proved in the absence of proof to the contrary.

The court may order the person convicted to pay to the Treasurer the actual cost to the Government of repatriating the native removed.

Gold Buyers.—No. 7 repeals the Gold Buyers Ordinance of 1909 which merely provided for the issue of licences to buy gold and a penalty for buying gold without a licence. The Ordinance is much more comprehensive. It defines " Agent," " Licence " and " Permit." Licences are issued by a resident magistrate or other authorized person and remain in force until December next, following the date of issue. The fee is £5, but if the licence is issued after June 30, it is half that amount. Licences for the following year may be renewed on or before December 31 in each year. The fee for renewal is £5. When a licensee has been convicted of any offence against the provisions of the Ordinance, his application for renewal may be refused.

A licensee may be granted upon application at any time to a qualified person a permit to employ an agent to buy gold for him. The number of agents at any one time in respect of one licensee is limited to six. The name of each agent must be endorsed on the licence. Permits may be cancelled. Permits remain in force until December 31 next after issue. The fee for issue and also renewal in respect of each agent is £1.

Every licensee shall keep a record of the gold bought by him, which record shall be kept at his principal place of business and be available to a magistrate or European police officer. Returns in duplicate are to be furnished half-yearly to the nearest resident magistrate. Penalties are provided.

Printers and Newspapers.—No. 9 amends s. 17 of the principal Ordinance by adding a proviso thereto empowering a judge of the Central Court to dispense with any or all of the sureties required by that section upon such terms and conditions and for such period as he may think fit.

Natives' Transactions.—No. 10 amends the law which regulates certain transactions which affect natives contained in the Transactions with Natives Ordinance, 1893. Under s. 5 of that Ordinance certain contracts with natives are declared to be void as against the natives unless the contract is in writing and unless the written contract contains the names and residences of every party to it and what is to be done under such contract by each of such parties, and unless such contract is approved by an inspector. To the list of contracts specified in s. 5 are now added : 1. Any contract for the purchase of pearls from natives where there is to be future

delivery. 2. Any contract for the sale of property to a native wholly or partly on credit. 3. Contracts for the loan of money to natives. 4. Contracts whereby a native undertakes the sale of any goods on commission or for reward when the goods are in the possession or control of the native. 5. Contracts for the hire or repair of a boat not being a native canoe. 6. Contracts for the future delivery of any goods in any form by a native either directly or indirectly. 7. Contracts for the purchase in advance of crops of coconuts or crops of any agricultural product from a native directly or indirectly. 8. Contracts declared unlawful by proclamation in the *Gazette* from time to time.

Two new sections, 10A and 10B, are added, which appear to be necessary in the changing circumstances of the native population. They are indeed indicative of the advancement made by the natives in their acceptance of the higher standards of human affairs. S. 10A provides that upon the application of a native the Commissioner for Native Affairs may exempt him from any or all of the provisions of the Ordinance upon such terms and conditions as he may think fit. Any person having dealings with any native exempted shall be deemed to have notice of the terms and conditions. Real and leasehold property shall not be available to satisfy any claim against a native. No native shall be imprisoned pursuant to any Ordinance relating to judgment creditors. It will be seen that there may be a relaxation of the provisions of the Ordinance on behalf of those natives who have advanced beyond their fellows.

S. 10B is an important addition. Whenever it shall appear to a person authorized by the Lieutenant-Governor to make application that any native is entitled or is about to or has before the commencement of the Ordinance become entitled to money or property of the value of £50 and upwards and that such money or property will not be utilized to the best advantage of the native entitled such person may apply to the court for the appointment of a trustee. The allegation that the person entitled is a native shall be *prima facie* evidence. The court has a discretion as to the application of the money or property. The native entitled may at any time apply to the court for the variation or cancellation of the order.

Immigration Restriction.—No. 13 brings the law up to date by inserting a definition of "vessel," because now persons may and do enter the Territory by air. "Vessel" includes any aeroplane, seaplane, airship, balloon or any other means of aerial locomotion.

Firearms.—No. 15 removes the confusion in the application of the Arms, Liquor and Opium Prohibition Ordinance with regard to general and special arms permits. The general arms permit is now called an employers' arms permit and it authorizes the holder to entrust firearms to the native named in the permit for the purpose of shooting for such holder. The permit may be issued to any person who is not a native, any body corporate, the Government of the Territory, any Christian Mission Society or body, any other person or body approved by the Lieutenant-Governor.

The special arms permit empowering a native to possess and to use firearms remains the same.

Real Property.—No. 16 amends the law of real property. Whenever the Lieutenant-Governor or the Government Secretary shall certify in the form prescribed that the registered proprietor of any land under the provisions of the Real Property Ordinance or any estate or interest therein or security thereon is a native and has died intestate and that a specified

native is entitled by native custom to any such land, estate, interest or security, the Registrar shall upon production to him of such certificate enter the particulars thereof in the register book or the register of Crown leases and shall make and issue all such certificates of title or other instruments necessary to give effect to such certificate.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., *Parliamentary Law Draftsman.*]

Acts passed: Public—43; Local—18; Private—4.

The Fifth and final session of the Twenty-fourth Parliament of New Zealand commenced on August 29, 1935, and ended on October 26 of the same year; during the Session the House of Representatives sat on thirty-five days for a total period of 198 hours 28 minutes. As contrasted with this short Session, the previous Session (1934–35) commenced on June 28, 1934, and ended on April 5, 1935, when the House sat on 113 days for a total of 717 hours 54 minutes.

Two main reasons account for the brevity of the last Session. In the first place the Right Hon. Mr. Forbes (Prime Minister) and the Right Hon. Mr. Coates (Minister of Finance) were in London for the "Silver Jubilee" celebrations, and this delayed the opening of Parliament for two months; in the second place, a general election was pending, and members of Parliament were uneasy in that, while they were attending to their Parliamentary duties, their political opponents were busy making electioneering speeches.

The legislative work of the Session was relatively of minor importance, being to a large extent limited to amendments of prior legislation. In the following review, all measures of importance are adverted to.

Taxation.—The Land and Income-tax (Annual) Act, No. 2, fixes the rates of land-tax and of income-tax for the year ending on March 31, 1935. Contrary to public hope, if not expectation, no reduction was made in the rates that have prevailed since 1931.

The Land and Income-tax Amendment Act, No. 32, amends the law relating to assessments for land-tax and income-tax. None of the amendments effected by this Act is of major importance. An extension of the right to claim special deductions from assessable income is made in s. 4, which allows a tax-payer to claim a deduction in respect of contributions made by him in support of his widowed mother-in-law corresponding to the deduction that he was formerly entitled to claim in respect of contributions in support of his widowed mother, an unconscious official humorist having pronounced that "it is a greater hardship for a man to support his mother-in-law than his mother." The English provisions (contained in 23 & 24 Geo. V, c. 19, s. 31) for the assessment of co-operative companies have been substantially adopted (without interfering with special provisions that have been for a long time in force in respect of the assessment of co-operative dairy companies and which are now extended to co-operative pig-marketing associations). Authority is given in s. 11 to the Governor-General in Council to enter into reciprocal arrangements with other countries (whether within the British Dominions or

elsewhere) with respect to the assessment for income-tax of "non-resident traders." None of the other provisions of this Act calls for comment.

War Pensions.—Two Acts deal in effect with war pensions. The War Veterans' Allowances Act, No. 4, provides for the grant of pensions (technically described as "allowances") for persons who, being domiciled in New Zealand, served in the Great War or in the South African War, "with a unit in actual engagement with the enemy," and for the dependents of such persons. The Act is intended to cover the cases of men (of whom there are already many) suffering physical or mental infirmity that cannot be attributed directly to their war service. The maximum pension is limited to £52 a year for the ex-soldier, £39 a year for his wife and £13 a year for each dependent child.

The War Pensions Amendment Act, No. 6, extends the benefits payable under the War Pensions Act, 1915, to the wives of ex-soldiers, to cases where marriage has taken place within seven years of the soldier's discharge. Hitherto the benefit for the wives has been limited to cases where marriage had taken place not later than two years after the husband's discharge from the Forces. The benefits of the War Pensions Act are also extended to the children born of marriages contracted within this extended period.

Salaries and Civil Pensions.—Drastic "cuts" in salaries and in civil pensions were made in 1931 and again in 1932. By the Finance Act, No. 12 of 1934, a partial restoration was made; a further restoration has now been made by the Finance Act, No. 5. Old Age Pensions have been fully restored, and salaries have been increased by 7½ per cent. of the rates payable at the date of restoration (*i.e.* August 1, 1935).

Masseurs.—By the Masseurs Registration Act, 1920, practising masseurs are required to be registered. By the amending Act of 1924 the term "massage" is defined as "the use of external application to the human body of manipulation, remedial exercises, electricity, heat or light for the purpose of curing or alleviating any abnormal condition of the body." This includes what is technically called "actinotherapy." It is not thought necessary or desirable that the practice of actinotherapy should be restricted to registered masseurs, and by the Masseurs Registraton Amendment Act, No. 8, any registered nurse trained at the St. John Clinic and Institute of Physical Medicine or who has had an approved course of training elsewhere is qualified to practise actinotherapy, or to be employed to administer actinotherapeutic treatment in any public hospital, notwithstanding that she may not be registered as a masseur under the Masseurs Registration Act.

International Conventions.—The Whaling Industry Act, No. 12, is designed to give effect (so far as New Zealand is concerned) to the whaling Convention that was signed at Geneva on September 24, 1931; the Shipping and Seamen (Safety and Load Line Conventions) Act, No. 43, is likewise designed to give effect in New Zealand to the Safety Convention (signed in London on May 31, 1929) and the Load Line Convention (signed in London on July 5, 1930). The last-mentioned Act is expressed to be part of the Shipping and Seamen Act, 1908, and has accordingly been reserved for the signification of His Majesty's assent, in terms of the Merchant Shipping Act (New Zealand not yet having adopted the Statute of Westminster). To give effect to the Safety and Load Line Conventions will involve extensive amendments of the statute law regulating shipping.

It was not practicable to prepare these amendments in time to be considered by Parliament, and the Governor-General has been empowered to prescribe the necessary amendments by Order in Council; while any such regulations are in force the Shipping and Seamen Act is to be read subject thereto. In due course the substance of the regulations will doubtless be incorporated in the statute law.

Colonial Light Dues.—Act No. 13 authorizes the collection in New Zealand, on behalf of His Majesty's Government of the United Kingdom, of certain Colonial light dues imposed under s.670 of the Merchant Shipping Act.

Rent Restriction.—Act No. 14 extends for a further period of one year the provisions of Part I of the War Legislation Act, 1916.[1]

Immigration Restriction.—Act No. 15 extends until December 31, 1936, the duration of the Immigration Restriction Amendment Act, 1931.[2]

League of Nations.—By the League of Nations Sanctions (Enforcement in New Zealand) Act, No. 17, the Governor-General is empowered to make, by Order in Council, all such regulations as he from time to time thinks necessary, "for the purpose of enabling the Dominion of New Zealand to fulfil its obligations under Art. 16 of the Covenant of the League of Nations." Regulations made under the Act are required to be laid before Parliament and in due course lapse unless in the meantime they are expressly validated or confirmed by statute. The Act is of general application, and has no special reference to the international situation as at the time of the passing of the Act (October 1935).

Judiciary.—By the Judicature Amendment Act, No. 18, provision is made for the appointment of one additional Supreme Court Judge. The immediate occasion for the additional appointment has arisen from the appointment of one of the Supreme Court Judges to be the Judge of the Court of Review of Mortgagors' Liabilities.[3]

In consequence of the amending Act, the Supreme Court will now consist of the Chief Justice and nine other Judges.

Law Practitioners.—Part I of Act No. 20 provides for the setting up of a "Disciplinary Committee of the New Zealand Law Society," with power to suspend from practice any person who may be guilty of professional misconduct, or to remove the name of any such person from the roll of barristers or of solicitors. These functions have hitherto been exercised by the Supreme Court, on application by the Law Society. Persons aggrieved by the action of the Disciplinary Committee are given a right of appeal to the Supreme Court.

Part II relates to the Solicitors' Fidelity Guarantee Fund established under the Act of 1929.[4] The amendments are designed to strengthen the position of the Fund by giving additional powers for the investigation of the affairs of solicitors and in other ways.

Part III contains a number of miscellaneous provisions, of which one at least is of some interest. The system of solicitors' articles is not in vogue in New Zealand, and hitherto no restriction has been placed on men commencing practice on their own account as soon as they have acquired their professional qualifications, notwithstanding that they have no practical experience. S. 33 of the amending Act applies to persons

[1] As to this legislation see *Journ. Comp. Leg.*, 3rd Series, vol. xvii, pt. ii, p. 114, and earlier numbers.

[2] See *ibid.*, vol. xvii, pt. ii, p. 117.

[3] See *ibid.*, vol. xviii, pt. ii, p. 115.

[4] See *ibid.*, vol. xiii, pt. ii, p. 97.

enrolled as solicitors after May 1, 1939, and debars them (except by special leave of the Supreme Court) from commencing practice, either on their own account or in partnership, unless they have had three years' legal experience in the office of a barrister or solicitor or a firm of solicitors in active practice.

Legislation by Order in Council.—Under the Agriculture (Emergency Powers) Act, 1934, extensive power to make regulations with respect to primary industries was conferred on the Governor-General in Council. Ordinarily the matters proposed to be dealt with would be dealt with by direct legislation, but the nature of the problems involved made this impracticable. In order that the legislative functions of Parliament should be preserved, it was provided in the Act referred to that all regulations made thereunder (regardless of their nature) should lapse unless in due course they were expressly confirmed by statute. The Agriculture Emergency Regulations Confirmation Act, No. 21, confirms the regulations that have been made since the 1934–35 Session of Parliament.

Mortgage Corporation of New Zealand.—The Mortgage Corporation of New Zealand Act, 1934–35, made provision for the transfer to the Mortgage Corporation established under that Act of mortgages held by the State Advances Superintendent and other Departments of State. With respect to those mortgages the Corporation enjoys certain special privileges that do not attach to ordinary mortgagees, or to the Corporation itself in respect of its new business. By Act No. 24 the special privileges conferred on the Corporation with respect to transferred mortgages are made applicable to certain new mortgages that may be regarded as representing transferred mortgages.

Special protection is also accorded to the Corporation when, in the course of its business, it grants loans on the security of leasehold interests in Crown lands and certain classes of Native land. These special privileges are similar to the special privileges formerly enjoyed by the State Advances Superintendent and still enjoyed by the Public Trustee in respect of mortgages of leasehold interests in the same classes of land. Other provisions of the amending Act are highly technical, designed to give effect to the original intentions of the Legislature with respect to the Mortgage Corporation.

Tenure of Crown Lands.—The Land Laws Amendment Act, No. 25, is a further measure passed for the purpose of affording needed relief to Crown tenants. Many of these are in the process of purchasing their holdings by a system of time payments extending over long terms (a usual term is 34½ years), during which half-yearly payments of principal and interest are payable by the tenant. Included in the miscellaneous provisions of the present Act are provisions which permit of the surrender of existing titles and the issue of new licences for a further period of 34½ years (with consequential reductions in the amount of half-yearly payments). Another provision permits the postponement of any number of half-yearly payments of purchase-money and a consequential extension of the period allowed for the completion of purchase. Another concession to tenants whose rental is calculated as a percentage of the capital value of their holdings is the revival of a provision (viz. s. 216 of the Land Act, 1924), the operation of which was suspended in 1932. By virtue of this provision such tenants may obtain a revaluation of their holdings, with a consequential reduction of rent in the event of the capital value being reduced.

Aerodromes.—The Public Works Amendment Act, No. 27, makes provision, *inter alia*, for the compulsory taking of lands required for the purpose of aerodromes.

Conversion of Motor-cars.—As long ago as 1919 special provision was made with respect to the unlawful taking of motor-cars, not amounting to theft. Since then the law has been altered from time to time, each time making the penalties more drastic. The offence is still, however, comparatively common, and the Government has been urged by associations of motor-car owners and by other organizations to promote legislation making the penalties sufficiently heavy to act as a deterrent. The Police Offences Amendment Act, No. 29, has now been passed as a result of representations that have been made as to the frequency and seriousness of the offence. The matter is dealt with in s. 2 of the Act, which provides for alternative procedures according to the seriousness of the alleged offence. The right to lay an information for an offence under the section is limited to officers of police, and the informant can in his discretion lay an information as for an offence punishable on indictment or for an offence punishable on summary conviction. On conviction on indictment, the maximum penalty is fixed at a fine of £200 or imprisonment for two years, or both such fine and imprisonment. On summary conviction, the maximum penalties are fixed at a fine of £50 or imprisonment for three months, or both such fine and imprisonment. An intermediate penalty is provided, for cases in which the accused, though charged with an indictable offence, consents to be dealt with summarily. In this last-mentioned case the maximum penalties are fixed at a fine of £100 or imprisonment for a year, or both such fine and imprisonment.

Road and Rail Transport.—Act No. 31 deals with a government suburban railway in the vicinity of the City of Wellington. In itself the Act is of local interest only, but it may be significant as a precedent. At the present time the line concerned is part of a main-trunk railway, but will shortly (on the completion of a diversion now in process of construction) become a purely suburban passenger-service line. The Government Railways Board has been faced by two alternatives, viz.: (1) to abandon the line, leaving the matter of transport to private enterprise (by means of motor-omnibus road services); or (2) to maintain and electrify the line. The second alternative involves the expenditure of a considerable capital sum, which, in the opinion of the Board, was not justifiable without a monopoly of the transport services for the district affected. This monopoly has been granted by the Act above referred to [1]; while the Railway Board maintains a sufficient service for the district no licences under the Transport Licensing Act, 1931 (for motor-omnibus services), can be granted except to the Board itself (which will maintain a railway service and also a road service.). If the Railway Board fails to maintain adequate services, a licence to carry on a motor passenger service can be granted by the proper licensing authority.

Housing.—Two Acts relating to housing were passed during the Session. The Native Housing Act, No. 34, is entitled "An Act to make better provision for the housing of the Maori People." The administration of the Act is entrusted to the recently established Board of Native Affairs, which is empowered by the Act now under review to lend money to natives for the erection of dwelling-houses, or for the alteration or improvement of existing dwelling-houses. Loans under the Act are

[1] The Government Railways (Wellington to Johnsonville) Act (1935, No. 31).

required to be secured by way of mortages of land or the assignment of revenues, or by other approved securities.

The Housing Survey Act, No. 40, imposes an obligation on the Councils of all boroughs having a population of 1,000 or more inhabitants to prepare a housing survey for their respective districts, with a view to ascertaining the extent of the present housing shortage and the physical conditions of existing dwelling-houses (in relation to reasonable standards for the maintenance of health and comfort). The survey is required to be undertaken forthwith, and is preliminary to the inauguration of a Dominion Housing scheme (to which the present Government stands committed in the event of its return to office at the general elections to be held in November 1935).

Motor Transport.—The Transport Licensing Act, No. 36, amends the Transport Licensing Act, 1931, by making provision for the issue of motor passenger-service licences having a currency of three years (as against twelve months under the earlier Act), with power to the Licensing Authority to revoke a licence in the event of a material alteration of circumstances. It has been contended against the annual licence that it did not give the licensee sufficient security of tenure to justify any considerable capital expenditure for the improvement of the service carried on under the licence.

Trusts and Trustees.—The Trustee Amendment Act, No. 37, alters the former law by which trusts for charitable purposes were liable to be defeated because of the association with charitable purposes proper of other non-charitable (*e.g.* benevolent) purposes. S. 2 of the present Act adopts the provisions of s. 131 of the Property Law Act, 1928 (State of Victoria), and enacts that " Any trust shall be construed and given effect to in the same manner in all respects as if no application of the trust funds or any part thereof to or for any such non-charitable and invalid purposes had been or should be deemed to have been so directed or allowed."

A provision of some importance is contained in s. 5, which authorizes the investment of trust funds in debentures issued by any company that may be formed with the object of making loans to members of co-operative dairy companies, provided that certain stringent conditions are complied with. Included in the conditions are the following : (1) Share capital of the debenture issuing company to be paid up in cash to an amount not less than £100,000 ; (2) Not less than 75 per cent. of the share capital to be paid up in cash by a co-operative dairy company ; (3) Loans to be secured by mortgages of land and not to exceed two-thirds of the value of the security ; (4) A Reserve Fund to be established and maintained by the debenture-issuing company (every mortgagor being required to contribute to the Reserve Fund an amount equal to 2 per cent. of the loan granted to him) ; (5) The dividend of the company to be limited to 5 per cent. per annum cumulative.

Tobacco-growing Industry.—Act No. 38 provides for the setting up of a Board to regulate the tobacco-growing industry (somewhat on the lines of the Boards set up to control other primary products, *e.g.* meat, dairy-produce and fruit). By virtue of this Act, tobacco-growers for commercial purposes require a licence from the Board ; the persons engaged in selling, purchasing or manufacturing tobacco from plants grown in New Zealand can do so only in conformity with warrants to be issued by the Board in that behalf.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* R. S. THACKER, ESQ., *Attorney-General.*]

Thirty-three Ordinances were passed by the Legislative Council during 1935, of which the following are the principal:

Criminal Procedure.—Ordinance No. 3, following the Criminal Justice Act, 1925, s. 47, abolishes the presumption of law that a wife who committed an offence in the presence of her husband was coerced by him. It will still be a good defence, however, to any charge other than murder or treason, to prove that in fact the offence was committed in the presence of and under the coercion of the husband.

Sentence of Death.—Ordinance No. 5, following English legislation, provides that where a woman convicted of an offence punishable with death is pregnant, the sentence passed on her shall be penal servitude for life instead of the death sentence, and also provides for the procedure where a woman convicted of a capital offence alleges she is pregnant.

Infanticide.—Ordinance No. 6, which also follows English legislation, provides that in certain cases a woman who causes the death of her newly-born child may be found guilty of infanticide instead of murder, and be punishable as if convicted of manslaughter.

Law Reform.—Ordinance No. 7, again following English legislation, enacts that with certain exceptions an existing cause of action shall on the death of any person survive against or for the benefit of his estate, and also that the quantum of damages recoverable by the estate of a deceased person is in certain cases limited. In an action against the estate of a deceased person proceedings must be pending at his death or arise within six months after the personal representative took out representation.

Minimum Wage.—Ordinance No. 14 applies to the Colony the provisions of a draft convention relating to minimum wage-fixing machinery adopted by the General Conference of the International Labour Organization of the League of Nations in 1928. It empowers the Governor in Council to fix a minimum wage for any occupation either generally or in any specified district if he is satisfied that the wages for that occupation are unreasonably low.

Children and Young Persons.—Ordinance No. 23 repeals and re-enacts the provisions of the Juvenile Offenders Ordinance, 1932, with minor amendments and incorporates several sections taken from the Children and Young Persons Act, 1933 (Imperial). The definition of " young person " has been altered by raising the age limit to seventeen years. The Ordinance provides that no child under the age of eight years shall be guilty of any offence, that the finding of a child or young person guilty of felony shall not impose any disqualification attaching to felony and also places restriction on the punishment of children and young persons.

Public Health.—Ordinance No. 29 repeals and re-enacts, with amendments, most of the provisions of the Public Health Ordinance, 1911. Further provisions have been added from legislation of neighbouring Dominions and other Colonies to bring the law up to date. The Ordinance now divides the Colony into urban, township and rural sanitary districts and provides that subsidiary legislation shall be enacted by the Central Board of Health. The various local authorities may, however, frame appropriate regulations for their districts for submission to the Board.

The provisions of the Pure Food Regulations relating to the protection of food from contamination have been incorporated and the provisions relating to infectious diseases are much more comprehensive than those in the repealed Ordinance. A part has been added dealing with venereal diseases which provides that persons suffering from any such diseases must be treated by a medical practitioner until cured, and makes it an offence to employ any such person in hotels, dairies or other places where food or drink is handled. Wider powers have been given to the authorities to endeavour to reduce the mosquito nuisance to a minimum.

Foreign Judgments.—Ordinance No. 30 provides machinery for the enforcement in the Colony of judgments given in courts of foreign countries which accord reciprocal treatment to judgments given in this Colony, and to facilitate the enforcement in foreign countries of judgments given in the Supreme Court of the Colony.

Mining.—Ordinance No. 31 mainly provides for the assessment, stamping and registration of documents relating to the disposition of mining tenements. All such documents are to be in writing and are to state the true and full consideration otherwise they will be fraudulent and void and of no effect either in law or equity.

Census.—Ordinance No. 32 provides the necessary machinery for taking the census in the future. The date on which the census will be taken is to be fixed by proclamation.

Towns.—Ordinance No. 33 is designed to give effect to the decision which has been taken by the legislature to alter the constitution of the Suva Town Council and to substitute a new body corporate to be known as the Suva Town Board for the existing municipality. Provision is accordingly made for the dissolution of the Municipal Council of Suva, the transfer of its assets to the new Town Board and the position of debenture holders. The new board is to consist of seven official members, and two unofficial members from each of the communities, European, Fijian and Indian, all nominated by the Governor. The affairs of any towns constituted in the future are also to be administered by nominated boards.

2. WESTERN PACIFIC.

(i) GILBERT AND ELLICE ISLANDS.

Native Lands.—The only Ordinance passed during 1935 amends the Native Lands Ordinance, 1922. It authorizes the Native Land Commission, set up under the principal Ordinance to decide claims to title, to award any unsuccessful claimant compensation for work done in good faith by such claimant upon the land forming the subject of the claim; such compensation may not exceed the appropriate amount under a scale fixed by the Resident Commissioner with the approval of the High Commissioner. It gives power to the Resident Commissioner to make regulations, subject to the approval of the High Commissioner, prescribing procedure, providing for the levy of fees in connexion with the making and hearing of claims and recording of titles, and for the levy of penalties for offences against the regulations and for the making of frivolous or vexatious claims. An extension of the period allowed for appeal against the Commission's decision may be made in the case of the person concerned being absent from the Island, or being unable for any reason, to the satisfaction of the Resident Commissioner, to give notice of the desire to appeal within the specified period of three days.

(ii) BRITISH SOLOMON ISLANDS.

King's Regulations passed—6.

Designs.—The principal King's Regulation, No. 3 of 1934, gave power to the Court to declare that exclusive privileges and rights in a design had not been acquired in the Protectorate under the provisions of the Regulation upon any of the grounds upon which the United Kingdom registration might be cancelled under the law for the time being in the United Kingdom. King's Regulation No. 4 adds that such grounds shall be deemed to include the publication of the design in the Protectorate prior to the date of registration of the design in the United Kingdom.

Customs and Light Dues.—King's Regulation No. 5 provides for the payment by tourist ships of a fixed sum of money in composition for customs and light dues.

Agriculture and Live Stock.—King's Regulation No. 6 provides for the protection and advancement of agricultural and live-stock industries in the Protectorate. It provides for the appointment of a committee to advise and assist the High Commissioner in all matters connected with agriculture and live stock, and defines its powers and duties. It prohibits the propagation or conveyance of any plant which the High Commissioner by proclamation published in the *Gazette* may have declared to be a noxious weed. Provisions are made for the control of plant importation, control and treatment of vessels and goods from places infested with pests, control of the importation of live animals, birds, insects, etc., and penalties are prescribed for contravention of the regulations.

(iii) KINGDOM OF TONGA.

[*Contributed by* J. S. Neill, Esq., *H.B.M.'s Agent and Consul.*]

Acts passed—18.

Marriage and Registration.—Tongan custom allows the marriage of a man with his mother's brother's daughter, but with no other first cousin. Custom also permits a woman to marry her father's sister's son, but no other first cousin. A provision in the principal Act prohibited these marriages and that provision has been repealed by Act No. 10.

Tongan Nationality.—Act No. 11 defines the persons who are to be regarded as Tongan nationals. They are: (*a*) any person born in Tonga of Tongan parentage and the first generation born abroad: provided, however, that the child of an illegitimate union born abroad shall only be deemed to be a Tongan subject where the parents of such child are Tongan subjects and the father acknowledges the paternity of the child or in the event of dispute where the paternity is established by process of law; (*b*) any person naturalized in Tonga under the Naturalization Act, 1915; (*c*) any person born out of wedlock in Tonga whose father is a Tongan subject and whose mother is an alien; and (*d*) any person born out of wedlock in Tonga whose mother is a Tongan subject and whose father is an alien.

Whaling Industry Regulation.—Act No. 12 gives effect in Tonga to the provisions of the International Convention for the Regulation of Whaling.

Carriage by Air.—Act No. 13 gives effect in Tonga to the provisions of the Convention for the Unification of certain rules relating to International Carriage by Air.

Sentence of Death (Expectant Mothers).—Act No. 16 is modelled on the Imperial Act of 1931, 21 & 22 Geo. V, c. 24.

Treasury Notes.—Act No. 17 follows the model of modern currency note legislation. An exchange standard system, based on Australian currency, is adopted.

The other Acts passed are of local importance and call for no comment.

(iv) NEW HEBRIDES.

[*Contributed by* His Honour G. A. Joy, *Resident Commissioner.*]

Liquor.—Joint Regulation No. 1 suspends for one year obligation to procure a permit to purchase liquor.

Customs.—Joint Regulation No. 2 brings into force a new Import Tariff.

Joint Regulation No. 6 reinforces the current Collection of Customs Regulation in regard to declaring goods and late payment of duties.

Public Service Salaries.—Joint Regulation No. 3 brings into force a temporary levy on Condominium salaries.

Bills of Health.—Joint Regulation No. 4 defines the value of Bills of Health.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* W. G. Hoal, Esq., K.C., *Law Adviser to the Union Government.*]

During the Session for 1935, the Union Parliament passed sixty Acts, of which a large number were the ordinary Financial Acts. The following are of more general interest:

Census.—Act No. 5 amends s. 34 and 41 of the South Africa Act, 1909, and the Census Act, 1910, so as to provide for the taking of a census for the purpose of the delimitation of constituencies every ten years instead of every five years.

Higher Education.—Act No. 6 provides for the alteration of the name of the Grey University College at Bloemfontein to the University College of the Orange Free State. It also makes provision for the appointment of the professors, lecturers and other teachers at colleges.

Aviation Health.—Act No. 7 ratifies and confirms the Hague International Sanitary Convention for Aerial Navigation dated April 12, 1933, and provides that the Governor-General may designate aerodromes in the Union as sanitary aerodromes, do all things necessary to ratify or cause to be ratified on behalf of the Union any amendments of or additions to the Convention, and make regulations to give effect to the Convention in the Union and impose fees and penalties. S. 4 provides that an offence under any regulation made under the Act shall, with regard to the jurisdiction of a court to try the offence, be deemed to have been committed in any place where the accused happens to be. By s. 5 the Act and regulations made thereunder apply also in the mandated territory of South-West Africa and the port and settlement of Walvis Bay and to aircraft and aerodromes belonging to and in use by the Union Government unless used exclusively for naval or military purposes by the Union Forces.

Marriages.—Under the common law males over fourteen years of age and females over twelve are legally competent to marry. By Act No. 8 ages are raised as from June 30, 1935, to eighteen and sixteen respectively, unless the permission in writing of the Minister of the Interior has been obtained. This permission does not relieve the parties of the obligation to comply with all other requirements prescribed by law, *e.g.* as to banns, special licence, etc. Where a judge or court having jurisdiction has consented to the marriage, the Minister's permission is not required. A marriage officer may, if he reasonably suspects that either of the parties to a proposed marriage is of an age which debars them from being married without the consent or permission of some other person (*e.g.* of the Minister under the Act, or of the parents or guardians if either party is under twenty-one), he may refuse to solemnize the marriage unless he is furnished with such consent or permission or with a birth certificate or other satisfactory proof that the party in question is of an age which entitles him or her to marry without such consent or permission.

Trade Agreement.—In February 1935 the Governments of the Union and Southern Rhodesia entered into a trade agreement. This was ratified and confirmed by Act No. 14, which empowers the Governor-General to make regulations as to the importation, exportation, entry, removal, conveyance or transit of the goods referred to in the agreement, imported into or exported from or passing through the Union, in terms thereof, and to provide penalties for contraventions of the regulations or of any proclamation made under the Act.

John Dunn's Descendants.—John Dunn was a European who had been resident in Zululand for many years and had there acquired the status of a chief, exercising a chief's prerogative to marry many native wives. In 1900 the Government of Natal decided to set apart land for the occupation of his descendants. A certain tract of land known as "Dunn's Reserve," 10,000 acres in extent, situate in Zululand, was set aside for the purpose, but it was provided that the natives already resident therein should not be removed, but allowed to continue to reside there. Some of John Dunn's descendants remained resident outside the Reserve, but others actually occupied land in the Reserve. Disputes had arisen between the natives in the Reserve and such descendants and it was found necessary to legislate on the matter. Act No. 15 was therefore passed "to declare that the descendants of the late John Dunn are entitled to the award of certain land; and to provide for the appointment of a commission to determine which persons are, by virtue of their descent from the late John Dunn, entitled to such award; for the survey of such land; for the award of the land so surveyed and the grant of title thereto to the descendants of the late John Dunn." The Act makes detailed provision for the appointment and procedure of the commission, the lodging of claims, hearing of evidence, the survey and award of plots and their registration in the Deeds Office. To protect the grantees of the land the conditions provide that it shall not be alienated, transferred, hypothecated, subdivided or leased without the prior consent of the Governor-General; that the owner is bound to preserve and maintain the beacons; that no canteen or shop for the sale of wine, spirits, beer or malt liquor of any kind shall at any time be kept on the land, that all existing roads and thoroughfares shall remain open; and that the Governor-General may at any time make roads, railways, dams, aqueducts, drains and water-furrows, and construct telegraph and telephone lines, and reserve the whole

or any portion of the land for public purposes on payment of compensation. The right to minerals and mines is expressly reserved to the Crown, and finally the land may be forfeited by the Governor-General if the owner is convicted of treason.

Wage Determinations Validation.—A number of determinations made under Act No. 27 of 1925 included a provision that an employer shall pay to an employee who has performed, during any period, piece-work of a particular class in the trade or section of trade to which the determination related a remuneration for such piece-work not less than the wage payable under the determination to a time worker performing the same class of work during the said period. This provision was held by the Appellate Division in *Ex parte Minister of Justice, in re Rex* v. *Cohen* [1] to be *ultra vires*. Act No. 16 was passed to confer power on the Wage Board to make a recommendation and on the Minister to make a determination containing such a provision, and validating the provision in the fifteen determinations in which it had been included.

Tobacco Control.—Act No. 17 amends Act No. 19 of 1932. It provides (s. 1) for the establishment of the Tobacco Industry Control Board as a body corporate with the usual powers. The board consists of nine members of whom the Chairman (nominated by the Minister of Agriculture and Forestry) must be an officer of that department; four members represent tobacco growers who are members of co-operative organizations; one member represents tobacco growers who are not members of such an organization; one member represents large-scale tobacco manufacturers and one small-scale manufacturers while the ninth member represents commerce (s. 2). Ss. 3 to 10 provide for the nomination of these representatives and in case any organization or body is not in existence or fails to nominate any body, for nomination by the Minister. Provision is made as to the tenure of office by members, for meetings, quorum, voting, allowances to members and committees of the board (ss. 11 to 15). Power is given to make a levy on tobacco from tobacco traders and the payment of the proceeds into a special account under the control of the board (ss. 16 to 18). Under s. 19 the board has power *inter alia* to appoint officers; to acquire or hire property; to pay bounties to exporters of tobacco; to devise means for the use of surplus tobacco, to disseminate information about the tobacco industry; to pay its debts, and to utilize its funds for the development and betterment of that industry; to seek overseas markets, etc., and to make recommendations to the Minister on a number of matters. S. 20 gives the Minister power to make regulations for the carrying out of the objects and purposes of the Act and prescribing penalties not exceeding a fine of £100 for the contravention thereof. The remaining sections of the Act amend in various respects the earlier Act (19 of 1932).

Trade Coupons.—Act No. 18 is designed to restrict the giving or offering of benefits in connexion with the sale of goods and to restrict the use of trade coupons. A "benefit" means any prize, reward, gift, service, concession, admittance free or at a reduced charge to any place of entertainment, free insurance or insurance at a reduced rate, or any other benefit or advantage of any kind whatsoever; and a "trade coupon" means anything whatsoever which, either by itself or together with any other thing or act, entitles or purports to entitle the holder thereof to receive, or to participate in any competition for, any benefit (s. 1). S. 2

[1] 1934 A.D. 521.

prohibits the giving of unlawful benefits or trade coupons in connexion with the sale of goods under a penalty of a fine not exceeding £100, and provides that if any trade coupon or benefit is supplied or given to any person in contravention of the Act, such person shall have no right of action in respect of such trade coupon or benefit. S. 3 prescribes a number of exemptions, *e.g.* commission or remuneration paid in respect of services to a person engaged in the sale of goods, ordinary discount, warranties, etc. By s. 4 the Minister is empowered to make regulations declaring what benefits are unlawful for the purposes of s. 2 (1) (*a*).

National Parks.—Act No. 20 amends the National Parks Act, No. 56 of 1926, by adding certain specified pieces of land to the Kruger National Park and by giving the Governor-General power by proclamation to add Crown land to any park, but no land forming part of a park may be alienated or excluded or detached from such park except by Act of Parliament. Provision is also made for the carrying of arms by servants of the board of trustees, and for the permitting by the board of the carrying by visitors to the park of weapons on such conditions and within such limitations as may be prescribed by regulation. Powers of arrest, etc., conferred on native servants may only be exercised in respect of natives. Jurisdiction to impose the maximum penalties under the principal Act is conferred on magistrates' courts and on native commissioners, additional native commissioners and assistant native commissioners on whom the Governor-General has conferred criminal jurisdiction.

Sea-Shore.—Act No. 21 is an attempt to settle the respective rights of the Government and the public in respect of the sea-shore. Its full title is " to declare the Governor-General to be the owner of the sea-shore and to be entitled to exercise control over the sea-shore and over the sea and the bed of the sea within the three miles limit ; and to provide for the grant of rights in respect of the sea-shore and of the bed of the sea within the three miles limit, and for the alienation of portions of the sea-shore, and for matters incident thereto." " Sea-shore " means the land situated between low-water mark and high-water mark ; " high-water mark " means the highest line reached by the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods ; " low-water mark " means the lowest line to which the sea recedes during periods of ordinary spring tides ; and " three miles limit " means the distance of three nautical miles out to sea from low-water mark. S. 2 provides that, subject to the provisions of the Act, the Governor-General is the owner of the sea-shore, except of those portions of which the ownership has been transferred to or declared to be vested in any person by or pursuant to any law or which are included in the pieces of land described in certain items in the Schedule to the Act. Sea-shore vested in the Governor-General cannot be alienated or let except as provided by the Act or any other law, and cannot be acquired by prescription (s. 2). The Governor-General is entitled to exercise full control over such sea-shore and over the sea and the bed of the sea within the three miles limit (s. 3). Portions of the sea-shore may be let by the Minister for periods not exceeding one year for the erection of bathing boxes or tents, beach shelters, tea-rooms, etc. ; for the training of horses, the holding of races (including motor-car and motor-cycle races) and the provision of places for recreation, amusement or display; the construction of temporary jetties and landing-stages, fish-curing sheds or other temporary structures ; and the provision of landing sites for aircraft and the

establishment of aerodromes. The Minister may also permit the removal of sand, shingle, rock, stone, shells or seaweed and may, if authorized by resolution of both Houses of Parliament by notice in the *Gazette*, delegate to a local authority any of the powers mentioned in respect of sea-shore situate within or adjoining the area of jurisdiction of such local authority (s. 4). The Governor-General may, if authorized by resolution of both Houses of Parliament, let the sea-shore for more permanent occupation, transfer sea-shore to a local authority, permit the construction or laying on the bed of the sea within the three miles limit of cables, wharves, piers, breakwaters, sea-walls, etc., drainpipes or sewers, or any work of public utility; permit the removal for industrial purposes of shells from the bed of the sea within that limit, and reclaim land from the sea or permit such reclamation and alienate or let any land so reclaimed (s. 5). Provision is also made for the use of the sea-shore or the bed of the sea for any Government undertaking (s. 6), for the exercise of powers for the purpose of public health (s. 7) and for the application of the mining laws (s. 8). S. 9 contains elaborate provisions for the ascertainment of high-water mark and s. 10 empowers the Governor-General to make regulations with penalties, concerning the use of the sea-shore, bathing, removal of sand, shells, etc., prevention of the deposit of rubbish, etc., prescribing fees, etc.

Protection of Names, Uniforms and Badges.—Act No. 23 (occasionally contemptuously referred to during its passage through Parliament as the "Old School Tie Bill") has as its object the prevention of the indiscriminate wearing of "colours" which have become associated with particular scholastic institutions or sporting associations. It provides for the keeping of a register of the name and address of the applicant, association or institution, the name, uniform or badge which it is desired to register and an exact and precise description and a drawing or pictorial representation of the name, uniform or badge. Applications for registration which cost £5 must be published so as to enable objections to be made, and any objections duly lodged must be considered by the Minister of the Interior. The Minister's decision as to registration is final. A certificate of registration entitles the association or institution concerned to the sole and exclusive right to use the name, uniform or badge in respect of which the certificate is issued, and no other person may use such name, uniform or badge without the written authority of that association or institution. Contravention entitles the association or institution to sue in any magistrate's court for (*a*) an amount not exceeding £10 as the court may deem reasonable without any proof of damage or (*b*) damages or an interdict, or both damages and interdict, together in each case with costs. The Act allows the use of registered colours on the stage, provided that such use does not bring the colours into ridicule and contempt. Provision is made for the amendment and cancellation of certificates of registration. To keep its name on the register each association or institution must pay 10*s*. per annum. Non-payment by June 30 entails cancellation of its certificate of registration.

Performing Animals Protection.—Act No. 24 provides that no person shall exhibit or train any animals for exhibition without being the holder of a licence. Licences are granted by the Minister of Justice and are renewable each year. The Minister has to be satisfied that the applicant for a licence is a fit and proper person. With the licence is issued a certificate as to the animals in respect of which it is issued. This certificate

may be amended from time to time by a magistrate. Power is given to a police officer to enter upon premises where animals are kept or confined for exhibition or being trained, inspect such animals and places and inquire into the measures and methods by which the animals are controlled, restrained and trained and the course of feeding, or enter upon premises where the animals are being exhibited. It is an offence to obstruct such police officer. Jurisdiction is conferred on magistrates' courts to try offences under the Act. Power is give to the Minister to make regulations as to the forms of applications for licences, certificates, etc., the method of confinement of animals, the requirements necessary to prevent cruelty or suffering in exhibition, training, maintenance or travelling of animals, etc. The Act does not apply to the confinement or training of animals for military police or sporting purposes or for the purpose of an agricultural show, horse show, dog show, caged-bird show or any public zoological gardens, or to the exhibition of animals at a military or police tournament or a gymkhana, or at any such show or in any such gardens. The Act is to be read as one with the Cruelty to Animals Acts (Nos. 8 of 1914 and 14 of 1922) and the powers granted are, unless the contrary intention appears, in addition to the powers granted by those Acts.

Railway and Harbours Gratuity.—Act No. 25 extends the benefits of Act No. 8 of 1928 to a person casually employed by the Railway and Harbours Administration, provided that the General Manager is satisfied that the periods during which he was actually employed amount in the aggregate to fifteen years or more.

Divorce.—By common law a divorce may be granted only for adultery or malicious desertion. Act No. 32 provides that, in addition, a decree of divorce may be granted on the ground that the party against whom the decree is sought (*a*) has been subject to the provisions of the Mental Diseases Act, 1916, for a period of not less than seven years and is incurable ; or (*b*) has been declared to be an habitual criminal under s. 344 of the Criminal Procedure and Evidence Act, 1917, and has been detained in prison for at least five years after such declaration. The court cannot grant a decree on ground (*a*) unless it is satisfied by the evidence of three medical practitioners of whom two must be alienists appointed by the court that the defendant is incurable and unless it is also satisfied that the plaintiff (if the husband) is in no way to blame for the mental condition of the defendant. The court may refuse a decree on ground (*b*) if it is satisfied that the plaintiff voluntarily assisted the defendant in the commission of any crime of which he or she has been convicted. Where a divorce is granted on ground (*a*) the court may order the plaintiff to pay the defendant's costs, if any, and that he make provision to the satisfaction of the Master for the proper maintenance of the defendant and any child or children of the marriage and for the securing of any benefits to which the defendant may be entitled ; and shall not order the forfeiture by the defendant of any benefits arising out of the marriage. Before the plaintiff can remarry he must obtain a certificate from the Master that he has made such provision, and produce such certificate to the marriage officer. It is an offence on the part of the plaintiff to remarry without obtaining, and for the marriage officer to marry him without the production of such certificate.

Public Service.—Act No. 33 fixes the salary of the Chairman of the Public Service Commission at £2,000 a year and of members at £1,600 a year. The Act further provides for laying a return before Parliament of

all persons appointed to offices or posts in the Administrative Division of the Service who were not immediately prior to their appointment members of the Service.

Reformatory Service.—Act No. 34 makes provision for the pension rights and conditions of service of persons employed at juvenile reformatories and juvenile adult reformatories, the control of which has been transferred from the Prisons Department to the Department of Education. This Act governs the conditions of service, etc., of the personnel transferred.

Sundays River Settlement.—Act No. 35 establishes the Sundays River Settlement Management Board consisting of three or five members, as the Minister of Lands may determine, elected annually by the owners of land situate within the limits of the settlement. Every owner is eligible for election. No member of the board may receive any salary, fee or reward for the performance of the functions of his office, and any member who does so vacates his seat. Provision is made for the election of a chairman and for the procedure at meetings. The board is a body corporate with power, subject to the provisions of the Act and rules and regulations, to sue and be sued, to let, hire, buy, hold, sell, donate, exchange and mortgage land, but no sale, donation, exchange or mortgage may take place without the approval of the Minister. With such approval, the board may annually levy a rate payable by owners to meet its lawful expenditure. It may appoint such staff as is necessary to carry out its functions, and may make rules with regard to the grazing of live stock, the prohibition of the keeping of dangerous or undesirable animals, the disposal of carcases of animals, the impounding of animals trespassing on its land, the construction of buildings and improvements, the maintenance of roads, the prevention, removal and abatement of nuisances, etc. The Minister may make regulations as to the election of members of the board, their vacation of office and the filling of vacancies, the keeping of minutes and accounts, the procedure for levying and recovering rates, etc.

State Advances Recoveries.—From time to time in recent years money has been advanced on various schemes for the granting of assistance to persons to enable them to carry on farming operations. The administrative work in connexion with these advances has been distributed between several government departments and the Land Bank. Act No. 37 was passed to co-ordinate the work by making " provision concerning the making of advances by the State to farmers, to establish an office for the recovery of such advances and certain other debts owing to the State and to provide for matters incidental to such recovery." The Act establishes the " State Advances Recoveries Office " under a secretary to whom are transferred the powers, rights, duties and obligations of the General Manager of the Land Bank under certain Acts and agreements. A number of Acts are amended to accord with the new administration and provision is also made with regard to future advances and their recovery.

Irrigation Settlements.—Kopjes Irrigation Settlement Act, No. 38, establishes a board of management for the Kopjes Irrigation Settlement and for the irrigation works from which the land in the settlement is irrigated, defines the powers of the board and transfers certain land and rights and obligations from the Government to the board, provides for the division of the commonage of the settlement into sections, for the control of such sections by committees, for the revaluation of holdings, the

remission of water rates, the issue of deeds of grant and for other incidental matters. The board and the committees have power to make rules on various matters falling within their jurisdiction, while the Minister has power to frame regulations with regard to the election of members of the board and committees and their procedure.

Vyfhoek Management Act, No. 39, deals on somewhat similar lines with the Vyfhoek Settlement, where it was found desirable to divide the management between two boards.

National Roads.—Act No. 42 establishes a National Road Board and a National Road Fund. The Board consists of six members appointed by the Minister of the Interior, four in consultation with the Administrators of the four Provinces and two at his sole discretion. Members hold office for five years. The Minister appoints the staff, on conditions prescribed by regulation, but a member of the public service seconded to the Board remains a member of that service while so seconded. The Governor-General may, on the recommendation of the Board made after consultation with any administrator affected, by proclamation in the *Gazette* : (*a*) declare to be a national road any road or part of a road the immediate or early construction or reconstruction of which is, in the opinion of the Governor-General, necessary in the public interest ; (*b*) declare to be a provincial road any road or part of a road which in his opinion may be regarded as a potential national road ; (*c*) declare to be a special road any other road or part of a road, the construction, etc., of which is, in his opinion, likely to advance substantially the development of any part of the Union, or otherwise desirable in the public interest ; or (*d*) cancel any such proclamation. The National Roads Fund, which is administered by the Board, consists of (*a*) 3*d*. of the amount of customs duty collected on petrol, (*b*) other moneys appropriated by Parliament and (*c*) interest on invested cash balances. The Minister is empowered to make loans to the Board. The Board may not itself construct roads. These are constructed by the provincial councils and in the Cape Province by divisional councils. Payments are to be made by the Board for the year ending March 31, 1936, to the administrators in the following percentages—Cape 30 per cent., Transvaal 25 per cent., and Natal and the Orange Free State, each 22½ per cent. One of the first functions of the Board was to prepare a five years' scheme of national roads. This scheme is now being carried out.

Constitution.—South Africa Act Amendment Act, No. 43, extends from fifteen to twenty-five the number of days on which a member of Parliament can be absent without incurring any penalty. The life of provincial councils is increased from three to five years.

General Law Amendment.—The object of Act No. 46 is primarily to amend the Criminal Procedure and Evidence Act, 1917. That measure of nearly 400 sections was amended in 1926, but several further defects had been disclosed in practice and it was decided to undertake a further and more extensive amendment. A Bill was drafted in 1932, and, after being submitted to a Select Committee in 1934, was finally enacted in 1935. It was found desirable to include certain provisions dealing with civil procedure and allied matters, hence the wider title. Prior to Union prosecutions were in each colony under the control of the Attorney-General, who was a Minister. The South Africa Act (s. 139) made the Attorney-General responsible for prosecutions, independent of ministerial control. In 1926, the power of prosecution was vested in the Minister of

Justice, who might delegate his powers to the Attorney-General in each province. The present Act vests the power of prosecution in the Attorney-General, who, however, exercises his authority and performs his functions under the control and direction of the Minister. The Act empowers the Governor-General by proclamation to alter the areas in which the Attorneys-General function so that these areas need no longer be co-terminous with the provinces (s. 1), No such proclamation has yet been issued. Under Act No. 31 of 1917 peace officers were authorized and required to arrest in certain cases. The words "and required" are deleted (s. 2). Their power to arrest without warrant is extended to cover any person reasonably suspected of committing or having committed an offence under any law governing the making, supply, possession or conveyance of intoxicating liquor or habit-forming drugs or the possession or disposal of arms and ammunition (s. 3). A person arrested must forthwith be informed of the cause of the arrest and as soon as possible brought before a judicial officer (ss. 4 and 5). The police are given extended powers with regard to the search of premises, etc., for stolen stock, liquor or habit-forming drugs and for the seizure of vehicles and receptacles used in connexion with offences relating to the illicit possession, conveyance or supply of habit-forming drugs or liquor or the possession of or dealing in precious metal or precious stone (ss. 7 and 8). Where the person accused of any of these offences is convicted, the court may order the confiscation of such vehicle or receptacle (s. 69). A prosecutor may institute a preparatory examination by summons served on the accused informing him of the nature of the offence alleged and the time and place where he must appear (ss. 9 and 10). Where, after the commencement of a preparatory examination another accused is joined, the evidence already recorded may be read over to him in the absence of the witnesses, but the accused is entitled to have any witness recalled for cross-examination (s. 11). The provisions of the 1917 Act regarding the subpœnaing of witnesses and the arrest and punishment of defaulting or recalcitrant witnesses are amended by ss. 12 and 13. Evidence may be recorded in shorthand (s. 14), and previous convictions may be proved before the magistrate of the district in which the accused is in prison (s. 15). The Act also prohibits the publication without the written permission of the magistrate, given after consultation with the complainant or of his guardian if he is a minor, any information relating to or disclosed at a preparatory examination on a charge of (*a*) any indecent act or any act for the purpose of procuring or furthering the commission of an indecent act towards any other person, or (*b*) extortion or a statutory offence of demanding from another person something which is not due and, by inspiring fear in such person's mind, compelling him to render such advantage (s. 14). Where a person is charged with a series of connected offences, some of which were committed in one province and some in another, it has been necessary in the past to try him separately in each province. Provision is now made by s. 16 for one preparatory examination (and thereafter a trial) in one province only for all such offences. Power is given to a magistrate by s. 17 to hold a preparatory examination *in camera* if that course appears to him to be in the interest of good order or public morals or of the administration of justice, or he may order the exclusion of females or minors or the public generally or any class thereof. In cases of indecency or extortion he may also at the request of the complainant or his guardian exercise a similar power of exclusion (s. 17). A

preparatory examination may be stopped and turned into a summary trial with the consent of the prosecutor and the accused if it appears that the magistrate has jurisdiction to try it summarily and that it is desirable to do so (s. 17). Police powers to grant bail are extended by s. 19. S. 20 makes two important changes in the law of perjury. It is no longer necessary to allege that the false statement was material to the issue or to the prejudice of any person. Where an accused person has made two conflicting statements on oath, it is sufficient for the Crown to prove that he did so, and he may be convicted of perjury without proof as to which of the statements is false unless it is proved that when he made each statement he believed it to be true. Where two persons concerned in a transaction thereby commit different offences they may be charged together (s. 21). The age for jury service is extended from 60 to 65, and the income qualification from £150 to £250 per annum. No person is qualified for jury service unless he is a Union national. Persons employed continuously in a hospital, consuls and persons in the service of His Majesty in any of his Governments are exempted from jury service. Jury books are abolished and replaced by jury lists which are framed every four instead of every three years (ss. 25 to 33). The sections dealing with non-jury trials have been considerably amended. The right of the Attorney-General to ask for a special court of two or three judges instead of a jury and the power of the Governor-General to constitute such a court are now restricted to the crimes of treason, sedition and public violence. Where the judges are unable to agree (by the 1917 Act their decision must be unanimous) and a new court is constituted, no member of the first court may sit on the second (s. 35). The provisions with regard to trials by a judge with or without a jury are considerably extended. An accused person who has been indicted may in any case ask for such a trial by giving seven days' notice to the registrar. Where an accused person, on remittal, demands trial by a superior court, such trial is without a jury. In certain cases, *e.g.* under the Riotous Assemblies Act, 1914, illicit diamond and gold buying, offences in insolvency or where European and non-Europeans are concerned, the Minister of Justice may direct that the case be tried without a jury. In choosing assessors a judge is no longer limited to magistrates and native commissioners, but may choose any two persons who, in his opinion, have experience in the administration of justice or skill in any matter which may have to be considered at the trial. In the cases mentioned above or of treason, murder, rape or sedition there must be two assessors. In other cases the judge may sit alone or with one assessor. The assessors are members of the court, and do not sit merely in any advisory capacity. The judge rules on all matters of law, but the assessors may outvote him on matters of fact, except that a judge's view on fact prevails over that of one assessor (s. 36). By s. 37 a superior court has power to sit *in camera* similar to that given to a magistrate, and by s. 38 it is an offence to publish reports of proceedings in cases of indecency or extortion without the permission of the judge. Difficulty has in the past been occasioned in cases where a person has offered to sell pieces of glass or brass as diamonds or gold respectively. If charged with fraud he could not be convicted unless the Crown could prove that he knew the articles were not diamonds or gold, frequently an insuperable task. On the other hand, he could not be convicted of an offence against the diamond trading or gold laws as the substance was not diamonds or gold. This position has now been met by

s. 42 which enables the court, on a charge of fraud, to return a verdict of an attempt to contravene the diamond trade or gold laws. Pointing a firearm, previously an offence only in the Transvaal, is made an offence throughout the Union, and is made a competent verdict on a charge of murder, culpable homicide or assault (ss. 114 and 43). Similarly the law with regard to concealment of birth and verdicts for that offence on charges of murder and culpable homicide is made uniform (ss. 113 and 44). S. 268 of the 1917 Act enshrined the doubtful " best evidence " rule. This has now been repealed and provision made by s. 48 of the 1935 Act for the proof of a number of matters by affidavit, viz. whether a particular act, transaction or occurrence took place in a particular government or provincial office, court of law or bank ; whether a particular government or provincial functionary performed any particular act or took part in any particular transaction ; whether any person bearing a particular name furnished any particular government or provincial officer with any particular information or document ; the registration or recording of any fact or transaction under any law ; and any fact ascertained by any examination or process requiring any skill in bacteriology, biology, chemistry, physics, astronomy or geography. The court may, however, require the attendance of the person making the affidavit or direct that written interrogatories be submitted to him for his reply, which is also admissible. Certain special laws making affidavits and official certificates admissible are not affected. A confession otherwise inadmissible may become admissible if the accused or his representative adduces evidence of any statement made by him if such evidence is favourable to him (s. 49). It is not necessary to prove the signature of a public officer to any document produced purporting to be signed by him and bearing his seal of office (s. 50). An accused person who pleads guilty to any offence, other than murder, in a superior court, may be sentenced without hearing evidence. In an inferior court where there is a plea of guilty, evidence *aliunde* must be led that the offence was actually committed, unless the court is of opinion that the offence does not merit punishment of imprisonment without the option of a fine, or whipping, or a fine exceeding £15, in which case it may sentence him without hearing evidence (s. 51). Where the prosecutor is of opinion that the court will not exceed those limits of punishment, he may allow the accused to sign a written admission of guilt, which renders it unnecessary for the accused to appear in court. The accused may withdraw such admission and appear and be tried, or the magistrate, notwithstanding the admission, may hear evidence to prove the commission of the offence or to enable him to assess the penalty (s. 52). Following the English law of evidence,[1] the disclosure of the names of informers and production of the information in public prosecutions have been forbidden on the ground of public policy. This, in a country where public prosecutions are the rule, has caused a certain amount of hardship, and by s. 53 the rule is relaxed in cases where the making of the communication by the informer itself constitutes an offence, *e.g.* perjury. S. 54 makes the rule as to proof of marriage in cases of incest the same as it is in cases of bigamy. S. 55 provides that the accused or his representative in his presence may admit any fact relevant to the issue and that such admission is sufficient proof of that fact. If the admission is made at a preparatory examination and is noted in the record, it may be proved at the trial. If an act is an offence only if committed

[1] *Marks* v. *Beyfus*, 25 Q.B.D. 494.

by a person possessing a particular qualification or quality or vested with a particular authority or acting in a particular capacity, it is sufficient to allege that fact in the charge unless it is denied by the accused (s. 56). A person charged with failing to pay a tax to the Union or a Province or to give information to a Union or provincial officer, is deemed to have failed to pay the tax or give the information unless the contrary is proved (s. 58). There is a similar presumption as to proof of a licence to do an act or own any article (s. 59). Where a witness has given a statement and departs from it in his evidence, he may be cross-examined on it by the party calling him without any finding that he is hostile (s. 57). Where the age of any person is relevant and there is no or insufficient evidence the judge or magistrate may estimate such age from his appearance or any evidence which may be available (s. 72). To avoid the necessity of being subjected to the inconvenience of a prosecution a number of minor offences, *e.g.* contravening municipal by-laws, driving without lights or over the speed limit, or without a licence, improper or illegal parking, etc., may be compounded by paying the amount of the fine assessed by the magistrate for the particular offence (s. 60). A number of provisions have been made with regard to punishments. A superior court may, in a case of murder where the jury has found that there are extenuating circumstances, pass a sentence other than death (s. 61). The rigid alternatives of imprisonment in case of non-payment of fines which appeared in s. 345 of the 1917 Act have been repealed and the alternative imprisonment is now in the discretion of the court (s. 63). The provisions with regard to suspended sentences have been modified and the power to impose a whipping has been extended to males up to 21 years of age (ss. 64, 66 and 67). The powers of judges on review and of the superior courts on appeal have also been extended. Proceedings are not to be set aside unless there has been a failure of justice (mere prejudice to the accused is no longer sufficient). Where a conviction is set aside on the ground of irregularity or the admission of inadmissible evidence, the accused may again be charged, but before a different magistrate. The court has power to increase a sentence (s. 94). The Attorney-General may appeal where the magistrate has dismissed a charge as disclosing no offence and also where he has given a decision in favour of the accused on a point of law. If the appeal succeeds, the case is remitted and proceeds as if the court had originally ruled in accordance with the law as laid down on appeal (s. 95). In appeals to the Appellate Division from a superior court in a case originating in a magistrate's court, the leave of the superior court must first be obtained. If it is refused the appellant may apply to the Appellate Division for leave (s. 105). The Minister may state a case to the Appellate Division without prior leave of that division (s. 73). Provision is made with regard to the appointment of acting magistrates (s. 83), messengers of the court (s. 84) and special constables (s. 112). The Supreme Court is given power to make declarations determining future or contingent rights (s. 102) and it may allow the taking of evidence to perpetuate testimony (s. 103). In any proceedings, whether civil or criminal, a husband or wife or both may give evidence that they had no sexual intercourse with each other during the period of the conception of a child to which the wife has given birth. This rebuts the common law presumption *pater est quem nuptiae demonstrant* and abrogates the rule in *Russell's* case[1] which has been fully recognized in the Union—*Surmon* v. *Surmon*.[2] Failure to comply

[1] [1924] A.C. 687. [2] [1926] A.D. 47.

with an order for maintenance is made a criminal offence by s. 110. A defaulting father or husband can now be prosecuted, and the child or wife is no longer compelled to take expensive civil proceedings for contempt of court.

Land Settlement.—Act No. 47 amends the Land Settlement Acts in many respects. A lease may be cancelled if the lessee fails to pay all instalments of rent, interest or purchase price in respect of four successive years (s. 6). The Minister may remit charges for rent, interest and water rates (s. 8). Interest on all advances is reduced to 3½ per cent. per annum (ss. 10 and 11). Provision is made for the purchase of land to extend a holding whenever the land board certifies that it is necessary to extend its boundaries in order that it may afford a reasonably adequate subsistence to the lessee (s. 13).

Farmers' Assistance.—The object of Act No. 48 is to assist farmers by allowing them the privileges without the stigma of insolvency. A Farmers' Assistance Board consisting of not less than three persons is established, its executive organ being the State Advances Recoveries Office established under Act No. 37 of 1935. Any farmer, *i.e.* a European who in the opinion of the board normally derives his sole or principal means of livelihood from farming carried on by him within the Union, whose liabilities exceed the reasonable value of his assets, or against whom one or more of his creditors have taken or threatened to take action which has made or will make it impracticable for him to continue farming with a reasonable prospect of success, or who by reason of the extent or nature of his obligations or owing to lack of stock or the means of properly working his land, is unable to continue farming operations with a reasonable prospect of success, or whose estate has been sequestrated or assigned under the Insolvency Act, may make application to the board for assistance. A similar right is given to the widow, widower or child of a deceased farmer who, if he or she were alive, would be entitled to make such an application. Any proceedings instituted against any farmer for the recovery of any debt due by him or for the attachment or sale of any assets belonging to him in execution of a judgment of such court are stayed by the filing in such court of a certificate signed by the chairman of the board that the farmer has applied to the board for assistance and that it appears *prima facie* that there is a reasonable prospect that the board will grant the applicant assistance. Proceedings are stayed till the certificate lapses on the refusal by the board of the application. The board may lend money to the applicant on mortgage of the whole or part of his immovable property, acquire his property from him, let or sell such property to him, acquire live stock, etc., and sell or let them to him. A meeting of creditors may be called for the purpose of accepting a compromise if the board is satisfied that it is desirable that an arrangement be made with them under which he is released from portion of his liabilities. If such a compromise is accepted, the applicant is relieved of his liabilities, certain of his assets vest in the board, and a liquidator may be appointed to administer on behalf of creditors the other assets not vested in the board. If the compromise is not accepted, a trustee may be appointed to administer the assets as in insolvency " but the applicant shall not be deemed to be an insolvent and his estate shall not be deemed to be under sequestration for the purposes of any other law." Provision is made for the necessary entries in the Deeds Office, for the Land Bank to lend money under a compromise in lieu of the board. The liability of sureties of the applicant

is not affected by proceedings under the Act. No duty, tax or fee is payable on any document required or in connexion with any act or transaction performed under the Act.

Finance.—This is the usual " Omnibus " Act, dealing, *inter alia*, with the disposal of surplus State revenues, guarantees to banks participating in the government wool and mohair credit scheme, subsidizing of minor irrigation works, stamp duties, interest on Guardian's Fund, licences, native taxation, irrigation loans, assistance to Angola farmers, export subsidies and abolition of quitrent.

Provincial Subsidies and Taxation Powers.—The object of Act No. 50 was to amend the laws regulating the financial relations between the Union and the several provinces and the powers of the provinces and to provide for the assumption by the Union Government of liability in respect of certain loans in respect of provincial deficits, for the payment of further compensation to Pietermaritzburg, and for the observance of certain requirements in respect of pension funds. Special annual subsidies of £125,000 and £275,000 respectively are paid to Natal and the Orange Free State. Noxious weeds become a Union and not a provincial matter, while power is given to the Governor-General to transfer to provinces authority to legislate for irrigation and land settlement schemes, the establishment of labour colonies, the control of indigenous forests and forest plantations and the expropriation of land for public purposes in a province. An ordinance establishing a new pension fund must be submitted to the Treasury with an actuarial report, etc.

Public Health.—Act No. 57 amends Act No. 36 of 1919 in providing that the Minister may assume the liabilities of a local authority under that Act where he is satisfied that owing to lack of resources it is unable to exercise all its powers and perform all its duties. Provision is also made with regard to the treatment of infectious diseases, burials at sea, the slaughter of animals, construction of buildings and the provision of sewerage and drainage systems in urban areas, nursing outside hospitals, nursing service in native areas, etc.

Wheat and Mealie Control.—Act No. 17 of 1935 (*supra*) established a Tobacco Industry Control Board. Acts Nos. 58 and 59 establish similar boards with similar powers and functions to control the Wheat and Mealie Industries respectively.

2. CAPE OF GOOD HOPE.

[*Contributed by* Mr. Advocate A. J. Pienaar.]

Wild Birds' Protection.—The Act of the Union Parliament passed in 1934 prohibits entirely the capture of wild birds, but creates no machinery for its enforcement. Ordinance No. 9 to a certain extent remedies this defect. It empowers a police officer or other person specially authorized to ask the name of a person suspected. Refusal to give the name is an offence. Traps, snares, etc., may be seized as evidence for the prosecution and on a conviction may be confiscated.

Motor By-passes.—Ordinance No. 14 is an innovation and probably the first of its kind. Nearly every public road in South Africa is crossed, sometimes very frequently, by fences, usually of wire. To avoid the nuisance of opening gates in such fences, it had become a practice to construct in the fence, just off the road and close to the gate, what was known as a grid gate. This consists of a gridlike contrivance constructed

in a gap in the fence, which enables motor vehicles to pass through, but over which live stock cannot pass. The construction of such grid gates had no legal authority. Act 24 of 1934 gave provincial councils power to legislate on the subject. This Ordinance is the first attempt in that direction. It gives local authorities power to build such gates. Their construction is deemed to be part of road construction for the purpose of subsidy. The design must conform to specifications of the Provincial Roads Engineer—the object being to obtain a uniform type of gate. Other requirements may be prescribed by regulation. Existing gates when passed by the Provincial Roads Engineer become legalized, otherwise they are used at the risk of the owner of the land.

Commonage Preservation.—Ordinance No. 18 adds to the powers of local authorities to borrow money by enabling them to raise loans for the purpose of constructing works on a commonage to prevent soil erosion. This was necessary to give effect to the Union Government's plan of protecting and improving the soil of the country by a large number of small dams designed to check soil erosion caused by floods.

Shop Hours.—Ordinance No. 36 amends No. 14 of 1930 in three important respects. A local authority because of an event of extraordinary general public interest may close shops for a part of a day within the whole or a specified portion of its area. The keeping of employees on the premises after closing hours for special work is abolished, and the late hours on Christmas and New Year's Eves are reduced from 11 to 9 p.m.

Finance.—Evidence of improved times is to be found in Ordinance No. 6 which amends No. 21 of 1927 by increasing the subsidy for construction of main roads from 70 per cent to 90 per cent.; in Ordinance No. 21, which grants a rebate of 30 per cent. on amounts payable as Personal Tax; and in Ordinance No. 24, which reduces the rate of the Immovable Property Tax from $\frac{1}{4}d.$ to $\frac{1}{8}d.$ in the £1.

Local Government.—Ordinance No. 23 provides that whenever a local authority has in hand funds not immediately required to defray expenses, it may invest these on deposit with a bank on loan to the Union Government, or deposit with a building society registered under the Act of 1934. Moneys borrowed overseas may be invested on loan to the British Government. Unexpended revenues may remain uninvested or be invested in the council's own stock.

Municipal.—Ordinance No. 29 contains a formidable number of amendments in the Municipal Ordinance. Those of most interest are: a town clerk or treasurer may not be dismissed without the approval of the Administrator, and they may not belong to an association of municipal employers. When tenders for a contract have been called for a tenderer who canvasses becomes disqualified; two new provisions are included dealing with the repayment of overdrafts and the raising of loans for temporary needs; additional powers to make regulations are given, and to make grants or loans to sporting organizations for the permanent improvement of town property. (This was done especially to meet the difficulties of golf clubs who lease municipal land); upon a resolution of two-thirds of the councillors leased town lands may be exempted from rates; detailed provisions are laid down in connexion with the exemption of any property from rates. This was done in order to meet the case of an erroneous exemption, such as arose in the case of the *City of Cape Town* v. *Claremont Union College* [1] where the court held that a council

[1] (1934) A.D. 414.

could not claim arrear rates in respect of years when the property was exempted by mistake.

Divisional Councils.—Ordinance No. 33 introduces into Ordinance 13 of 1917 many of the corresponding amendments contained in No. 29. Some amendments peculiar to itself are: a council owning or leasing a quarry may sell gravel, stone, etc., to another local authority for the purpose of roadmaking; the provisions of Sir John Cradock's Proclamation of August 1813 are extended to freehold property; s. 320 is amended by the addition of two new subsections which give them powers similar to those of a municipal council in regard to building lines, plans, etc., and the removal of unauthorized structures. S. 14 gives power to close roads temporarily because of some event of exceptional public interest, *e.g.* a state funeral.

Provincial Road Fund.—Ordinance No. 31 is the offspring of the National Road Act, 1935, which provides for certain funds from Union revenue being paid over to the different provinces. This Ordinance establishes a "Provincial Road Fund" into which such moneys will be paid, and from which the Administrator may, subject to prescribed conditions, make loans or grants and pay subsidies to local authorities for the construction and maintenance of prescribed roads.

3. NATAL.

[*Contributed by the* HON. MR. ACTING JUSTICE CARLISLE.]

Fifteen Ordinances were passed by the Provincial Council of Natal during the calendar year 1935 of which three were appropriation measures (Nos. 1, 2 and 3), while one (No. 9) dealt with pensions and other benefits.

Revenue.—Ordinance 10 amends the Personal Income and Companies Taxes Ordinance of 1928 in regard to the personal tax payable by persons whose taxable income did not exceed £250.

Inland Fisheries.—Ordinance 11 deals with the protection of freshwater fish. The previous Natal Fisheries Ordinance of 1916 dealt with both inland and marine fishing and is repealed in so far as freshwater fish and inland waters are affected. S. 5 of the Ordinance provides for the establishment of an Inland Fisheries Board. S. 6 provides for the creation of River Conservancy Districts. The Inland Fisheries Board consists of nine members to be appointed by the Administrator of whom four may be nominated by the river conservancies. The Board is an advisory body and its functions and duties are to attend to all matters entrusted to it by the Ordinance. The Ordinance contains the usual clauses empowering the Administrator to fix the periods of close seasons for fishing and to deal generally by way of regulation with all matters which are necessary for the purpose of the Act, such as the issue of licences, the conditions to be imposed therein, the size of fish to be taken and so forth. The Ordinance further contains the customary provisions in regard to offences such as the obstruction of waters and damage to the waters, illegal capture of fish, failure to produce a licence to fish and so forth.

Licensing.—Ordinance 4 deals with the fees payable in terms of the Third Schedule of the Liquor Act of 1928 on the issue, renewal, transfer or removal of bottle liquor licences and provides that they are to be reduced to one-half of the sum set out in the Schedule if the premises are situate in an urban area where there reside less than 1,500 Parliamentary voters, or to one-fifth of the sum if the premises are situate in a rural area.

Local Government.—The remaining Ordinances are concerned with local government in the towns of Durban, Dundee, Greytown, Ladysmith and Pietermaritzburg. By Ordinances 5, 6 and 8 additional borrowing powers are conferred respectively upon the boroughs of Ladysmith, Greytown and Dundee.

Ordinance 7 gives extended powers to the borough of Durban and changes its status by creating the town a city. Various minor amendments are made to existing legislation. A new enactment provides that no human corpse is to be buried or cremated in the borough save in a burial ground or the crematorium authorized or owned and controlled by the city council.

Ordinance 12 empowers the City Council of Pietermaritzburg to write off certain losses sustained from the disposal of electricity generating and electric tramways plant and validates advances made to sporting bodies out of loans raised for estates development purposes.

Ordinance 15 amends the Local Areas Administration Ordinance of 1926. Various sections of the old Ordinance are repealed and new sections are enacted, but in the main the Ordinance consists of minor amendments of the main Ordinance.

4. ORANGE FREE STATE.

[*Contributed by* H. PRING, ESQ.]

During the year 1935 fifteen Ordinances were passed by the Provincial Council of the Orange Free State. Four of these Ordinances (Nos. 1–4) dealt with the finances of the Province—the remainder consolidated or amended existing Ordinances as indicated hereunder.

Dogs.—Ordinance No. 5 provides for a change in the tax year from the financial year (April to March) to the calendar year.

Wheel Tax.—Ordinance No. 6 amends the provisions of Ordinance No. 17 of 1931 relating to the grant of exemption in respect of bicycles used for the conveyance of children to and from school. Under the 1931 legislation such vehicles were exempt if used *exclusively* for the purpose mentioned. The amendment provides for exemption in the case of bicycles used *regularly* for such purpose.

Roads.—The objects of this amending Ordinance No. 7 are as follows: (*a*) to clarify the position with regard to appeals against the decision of the Superintendent of Roads in regard to the closing or deviation of roads, (*b*) to discourage the removal by landowners of fencing material erected by the Administration around quarries, (*c*) to make suitable provisions for the erection of motor by-passes in fences on land through which unfenced public roads run, (*d*) to make provision for the cancellation of servitudes of outspan and the creation of an outspan fund, and (*e*) to extend to quarries, gravel pits and other similar works the provisions of s. 41 of Ordinance No. 6 of 1932 relating to the limitation of actions.

Road Boards.—Ordinance No. 8 alters the existing method of electing members of Road Boards so that candidates will be nominated at least fourteen days before the day of election and, if only one candidate is nominated in respect of any particular ward, such candidate will be declared elected forthwith. The Ordinance also amends the provisions relating to the filling of casual vacancies.

Road Traffic.—Suitable provision is made by Ordinance No. 9 for T-shaped intersections of two or more public roads—such intersections are

not covered by the existing law, which provides for roads that cross one another only.

Pounds.—Ordinance No. 10 compels the owner of an impounded animal, when known, to take steps to release such animal and to pay all fees, charges and expenses due in respect thereof, within fourteen days from the receipt of an order to that effect issued by the Poundmaster.

Game Protection.—Ordinance No. 11 empowers the Administrator to grant permits authorizing in certain circumstances the capturing or killing of wild animals and birds that are ordinarily protected by proclamation.

Shop Hours.—Ordinance No. 12 ensures that the special privileges accorded to chemist and druggist shops will not be lost by reason of the shopkeeper holding a general dealer's licence and storing on his premises goods which he may not sell under his licence as an apothecary.

Entertainment Tax.—Ordinance No. 13 amends the definition " Entertainment " so as to include all purely amateur sports and games whether held out-of-doors or not.

Motor Vehicles.—Ordinance No. 15 provides that local authorities shall not be in a position to claim legally fees which the Provincial Council did not intend should form part of the revenue of such bodies, *e.g.* change of ownership certificates, temporary learners' licences, duplicate certificates, etc.

Local Government.—Ordinance No. 15 consolidates and amends the law relating to Municipalities and Village Boards of Management. The following Ordinances have been repealed : Local Government Consolidation Ordinance No. 11 of 1925 (except Schedule A), and amending Ordinances No. 12 of 1926, No. 8 of 1927, No. 8 of 1928, No. 12 of 1929, No. 13 of 1930, No. 6 of 1931, No. 15 of 1931, No. 5 of 1932 and No. 14 of 1933.

5. TRANSVAAL.

[*Contributed by* A. A. HOPE, ESQ.]

The Provincial Council in its last year before facing a general election passed 12 Ordinances of which 4 were appropriation Ordinances.

Game.—The only enactment of a general nature was the Game Ordinance, No. 11, which consolidates the various game laws passed between 1905 and 1918 when the last legislation on this subject was passed. Shooting of game birds and animals is still one of the most popular sports of the country, but the need to preserve the dwindling remains of the vast herds of 100 years ago is urgent. Landowners and their families retain the right to shoot over their own land all species of game not specially protected by proclamation. Other persons must have a licence and permission from the landowner. Trapping of game is prohibited and the sale of game is closely regulated. The great danger to wild life arises from poachers who shoot indiscriminately in the thinly settled parts of the Northern Transvaal and sell " biltong " (sundried meat) and hides and make a poor living in this way. The possession of hides, meat or horns is deemed to be *prima facie* evidence of unlawful hunting, and the onus of proving that his action was lawful lies on an accused person. Game which does damage to cultivated land may be destroyed by an owner who has shooting rights over the land at any time without a licence. The Administrator is empowered to make proclamations prohibiting the shooting of specified species of game animals or birds and may declare close seasons. Regulations may be made to govern the issue of shooting

licences and controlling the import and export of game trophies and game. By regulation any animal may be declared to be vermin; in the past lions have at times been declared vermin under similar powers. The Ordinance is enforced by means of fines without the alternative of imprisonment. Where poaching is accompanied by trespass the fine may be up to £100, in other cases it is £50.

Miscellaneous.—Other legislation consists entirely of amendments to the Local Government, Teachers' Pensions, Shop Hours, and Horse-racing and Betting Ordinances. These amendments effect small administrative changes and are the results of rulings by the courts and by auditors. Town councils are empowered to advance up to £100 to householders for wiring their houses for electric light and cooking. Teachers' pensions are to be reduced by reason of the reduction in their salaries which was in force during the depression years 1932–4.

6. NORTHERN RHODESIA.

[*Contributed by* E. E. JENKINS, ESQ., *Acting Attorney-General.*]

During the year 1935 twenty-six Ordinances were passed, of which eighteen were amendments to the existing law. The more important enactments were as follows:

Railways.—Ordinance No. 1 gives effect to the agreement reached at Capetown in May 1934 between the representatives of the Governments of Southern Rhodesia, Northern Rhodesia and the Bechuanaland Protectorate and the Rhodesian Railway Companies. It repeals the existing law, R.S. c. 128, but most of the sections of that law are re-enacted in their original or in a slightly modified form. The essential points of difference are in the provisions relating to the reserves and dividends and in the creation of a new account called the Rates Stabilization Account. Under the repealed Ordinance a reserve of one and a half millions was built up, but no provision was made for replenishing it once it had been drawn upon. Under the new law the Reserve Account is fixed at two and a half times the loan provision. This maximum may, however, be exceeded by accretions of non-recurrent revenue. Provision is also made for the replenishment of the reserve when it falls below the statutory maximum. The new law further provides for a dividend ranging from £75,000 to £150,000 according to the stage which the Reserve Account has reached, and for this purpose there are five stages which are set out in s. 17. Provision is also made for the creation and replenishment of a Rates Stabilization Account of a maximum amount of £500,000. The object of this is to prevent the inconvenience caused to commerce and the public generally by the periodical increase in rates which might be necessary in order to earn the standard revenue stipulated for in s. 15. Instead of increasing rates for the purpose of producing the standard revenue the Commission is empowered to draw within certain limitations on the Rates Stabilization Account. When the account exceeds £250,000 the excess may be drawn upon up to a maximum of £125,000 for the purpose of effecting a reduction in rates.

Legislative Council.—Ordinance No. 3 makes a partial redistribution of seats. Whereas formerly the Livingstone and Western Electoral Area returned two members and the Ndola Electoral Area returned one member, the former area now returns one member and the old Ndola Electoral Area is divided into two constituencies, each of which returns

one member. This is in consequence of the economic development of the Copperbelt in recent years.

Native Tax.—Ordinance No. 9 introduces a more equitable system of native taxation. Under the old law tax rates were prescribed for Province or Districts and a native paid the rate of tax obtaining in his district of domicile. The effect of this was that in the industrial area natives earning identical wages paid widely different taxes. Under the new law the tax can be prescribed for any district, area or place, and residence in the district, area or place governs the rate of tax payable. Residence for a period of one month during the tax year constitutes residence for the purpose of taxation. It is also provided that a native who has paid tax in one area and who moves to a higher assessed area and resides there for one month shall be liable for the difference between the higher and the lower rates.

Penal Code.—Ordinance No. 10 sets out more precisely the law relating to the criminal liability of intoxicated persons, adds offences against the Witchcraft Ordinance to those offences for which a person may be deported from the Territory, provides for the punishment of persons who return, or attempt to return, to the Territory in defiance of a warrant of deportation, and enables the Governor in Council by proclamation to declare any newspaper, book or document to be a seditious publication, and to prohibit the importation into the Territory of any newspaper, book or document.

Maize Control.—Ordinance No. 20 deals with the marketing of maize. It sets up a Control Board to which all maize produced is surrendered, and the Board controls the selling price. Subject to the Governor's approval, the Board fixes the price at which it will liberate maize for sale in Northern Rhodesia ; the Board also controls the import and export of maize. It issues participation certificates for maize surrendered ; these certificates can be assigned and the assignment thereof registered in the books of the Board. The maize surrendered is divided into two pools ; the export pool is credited with the proceeds of maize sold for export from the Territory, for feeding farmstock and poultry, and for such other purposes as the Board, with the approval of the Governor, may from time to time determine ; the local pool is credited with the proceeds of all other sales. The Ordinance applies only to scheduled districts.

Cattle Levy.—Ordinance No. 22 imposes a levy on all cattle bought within certain scheduled areas of the Territory for slaughter and sale as meat. The levy is payable by the producer, but is recoverable from the seller ; the proceeds of the levy are to be used for the benefit of the cattle industry.

7. SOUTHERN RHODESIA.

[*Contributed by* R. J. MORTON, ESQ., *Solicitor-General.*]

At the general election held in 1934 the United Party, led by Mr. Huggins, was returned to power with a large majority. A normal output of legislation was resumed and twenty-eight public Acts were passed in the First Session of the Fourth Parliament, fifteen of which dealt with financial matters or minor amendments of the existing law.

Agriculture.—Two Acts were designed to relieve farmers from the financial distress caused by the slump in prices. No. 27 abolishes quit-rent. The system of granting land on quit-rent tenure was adopted in the early days following the foundation of the Colony, being copied from

the system in force in the Colony of the Cape of Good Hope, but many of the Cape statutes governing quit-rent tenure had never been strictly applied, because during the greater part of the period of its administration the British South Africa Company was under the impression that the land belonged to itself and not to the Crown. Consequently there were many anomalies in the system which needed removal if it was to be retained, and also many landowners were badly in arrear in their payments. In future no land will be granted on quit-rent tenure and no quit-rent which fell due after December 31, 1934, will be payable, but the liability for arrears is not affected and no money paid in the past for the redemption of future quit-rent payments is to be refunded. No. 26 sets up simple machinery for saving efficient farmers from insolvency proceedings in cases where it will be to the interest of the country that they should be kept in production. The Board of the Land Bank is made the mediator between farmers and their creditors. Any farmer may make a proposal to the Land Bank for the adjustment of his debts, and, if agreement is reached between the Bank, all his secured creditors and a majority in number and value of his unsecured creditors, it becomes binding on the farmer and all his creditors. The effect of this agreement is similar to the registration of a deed of assignment under the insolvency laws, except that the farmer is not immediately released from his debts and immediate realization and distribution of his assets are not necessarily contemplated. All his assets are vested in the Land Bank, which is empowered to advance money to the estate from special government funds for the purpose of compounding debts and carrying on the farm until the farmer can be rehabilitated in a reasonably solvent state. It is contemplated that the Land Bank will not agree to any proposal if the farmer concerned is inefficient, or if the state of his finances is so bad that sequestration under the insolvency laws is the only practicable remedy.

No. 28 imposes a levy on cattle slaughtered in the Colony and on cattle exported to any other territory in Africa. The proceeds of the levy are to be used for paying bounties on cattle and beef exported overseas. It also contains enabling clauses which empower the Government to control the slaughter of cattle and sale of beef in prescribed areas. The object of these clauses is to give the Government power to break any butchers' rings which might be formed for the purpose of depressing slaughter cattle prices.

No. 24 establishes a Tobacco Research Board on which the Government, the growers and the buyers receive equal representation. It also establishes a Tobacco Research Trust Fund into which are to be paid contributions towards research received from other than government sources. It is expected that both growers and buyers will make contributions to this fund, which, however, will only be used when the annual cost of research exceeds £5,000. The Government will bear the cost of research up to that limit, and any excess expenditure will be borne partly by the Government and partly by the fund. As the functions of the Board are advisory only, control of expenditure remains with the Government.

Mining.—The most important Act of the session was No. 16, which consolidates and amends the mining law. The existing law dated back to 1903 and was mainly concerned with gold mining. In the interval there had been great development in the mining of base minerals, notably

chrome and asbestos. Increased settlement had given rise to conflict between the interests of farmers and miners, and in 1933 the Government had purchased the mineral rights of the Colony from the British South Africa Company. A new mining law was therefore overdue.

One of the main objects of the measure is to ensure that mining claims be worked. Under the old law it was possible to retain mining claims for thirty years or more without doing any work on them. The maximum period under the new law will be three years, except in the case of base mineral claims, which may be protected by payment instead of work for a period of five years from the commencement of the Act. This concession is given in view of the state of the market for base minerals. In order to induce owners to have their claims properly surveyed and to open up abandoned workings, a certain measure of protection may be obtained by lodging survey plans, by restoration work and roadmaking. No great alteration is made in royalties payable on production, but the highest royalty payable on precious metals will now be 5 per cent., and small-workers in precious metals or base minerals are given special privileges. As an inducement to prospect for precious metals away from the beaten track, the output of new claims, which are not less than 25 miles from any other previously registered claims, may be exempted from royalties for all time.

There has been a compromise between the conflicting claims of miners and farmers. In certain land titles the whole of the standing timber was reserved for the use of miners free of charge; under the new law the farmer will be entitled to use as much timber as he requires for purely farming purposes and may obtain a reservation of half the standing timber for his own use. He cannot, however, sell his reserved half to any other person than a miner. As regards surface rights, greater protection has been given to aqueducts, wells, boreholes, cultivated land and fallow land, and the right of a miner to graze his cattle is now limited in accordance with the acreage of the farm on which his claims are situated. The farmer will also be entitled to certain monetary compensation for the disturbance of his farming operations by mining. This will not be received direct from the miner, but will be paid by the Government out of mining revenue. Local boards are established for the settlement of disputes between farmers and miners by an inexpensive procedure.

In regard to the mining of certain precious metals, the system of extra-lateral rights, which was originally adopted from America, is to be continued. These have caused expensive litigation in the past, but the clauses dealing with them have now been clarified in accordance with judicial decisions and have been set out in much greater detail. The principle of the system is that the owner of the apex of a reef has rights which are dominant over those of any pegger on the dip and can pursue those rights outside the vertical boundaries of his property. Before he can claim those rights he must now definitely establish that the apex is within his property and cannot claim from a pegger on the dip the value of any minerals extracted by such pegger from the reef before the dominant owner has established his claim. It should be noted that in future no extra-lateral rights will be claimable in respect of claims registered for platinum and platinoid ores after the commencement of the Act.

The vexed question of special grants of mining rights has also been settled; in future such grants can only be made in cases where the Act is found to be inapplicable, must be limited in each case to an area not

exceeding one square mile and must be confirmed by resolution of the Legislative Assembly.

In general, the rights which a prospecting licence gives to prospect for all minerals have been co-ordinated, and the methods of pegging, registering and beaconing all claims, whether for precious metals, coal, oil or other base minerals, are now made uniform.

Railways.—No. 4 replaces No. 25 of 1926 and was the outcome of an agreement between, on the one side, the Governments of Southern Rhodesia, Northern Rhodesia and Bechuanaland Protectorate and, on the other, the railway companies operating in those territories. It has three main objects—first, that the railways shall be worked as an indivisible whole, second, that profits shall be limited and to that end charges shall be regulated by the Governments through a statutory Commission and, third, that financial stability shall be obtained and rate fluctuations prevented by the building up and maintenance of adequate reserves. The Commission consists of three members, one appointed by each Government, and a chairman, who is appointed by the Governments jointly, after consultation with the railway companies and with the approval of the Secretary of State. It has full powers to investigate railway accounts and annually fixes rates for the ensuing year with a view to the earning of a standard revenue. A reserve account is to be built up and maintained to secure payment of charges on loan capital, and dividends are limited and regulated on a scale which varies in accordance with the state of the reserve account. In addition, there is to be built up and maintained a rates stabilization account, which can be used to prevent rate increases in lean years.

It is anticipated that as a result of the financial stability achieved under this Act, the companies will be able to reduce their overhead charges by conversion or consolidation of their debenture debt. This may necessitate amalgamation of the companies, and therefore No. 6 provides for the transfer of existing statutory powers of the individual companies to their successors in the event of any such amalgamation.

State Lotteries.—No. 23 empowers the Minister of Finance to conduct lotteries and directs that there shall be not less than three such lotteries in each year. The Government is to make no profit from these lotteries. From the subscriptions to each lottery an amount to be determined by the Governor, not exceeding 25 per cent. of the total, is to be paid to trustees for the purposes of social service, public welfare or relief of distress. The remainder, after deduction of expenses of administration, is to be distributed in prizes, but no single prize may exceed £10,000 in value. The virtue of young persons and natives is protected by the provision that no person under the age of nineteen and no native may buy a ticket or receive a prize. Nor can the Civil Service be drawn upon to provide the administrative personnel.

Customs and Finance.—No. 13 ratifies the new customs agreement with the Union of South Africa. The customs union which has in some form always previously existed between the two countries is now definitely broken. Certain primary products of either territory, mainly of the pastoral industry, are to be admitted into the other territory free of duty, but the importation of Southern Rhodesian cattle into the Union is to be limited. The importation of certain agricultural produce, including wheat, maize and potatoes, from either territory is prohibited, and the importation of Southern Rhodesian tobacco into the Union is limited.

For most other things a preferential tariff is given by both parties. As well as ratifying the agreement, this Act gives enabling powers for the imposition of dumping duties.

No. 15 alters the incidence of the tax on the gold premium by raising the minimum taxable amount and providing relief for properties on which low-grade ore is treated.

Miscellaneous.—No. 7 brings the law relating to opium and other dangerous drugs into conformity with the terms of the Geneva Convention of 1931. No. 5 secures the preservation of the public archives. No. 8, amongst other amendments of the Medical, Dental and Pharmacy Act, prohibits the registration of any person as a medical practitioner, dentist, chemist, nurse or midwife, unless he or she resides or intends to reside within the Colony, but allows a consultant to be called in without registration.

BRITISH EMPIRE.

VII. BRITISH INDIA.

[*Contributed by* H. D. Benjamin, Esq., I.C.S.]

The year 1935 saw the opening of the Fifth Legislative Assembly. The re-entry into the Assembly of a substantial block of the Congress Party rendered the passage of Government measures a matter of greater difficulty than in the previous Assembly. Indeed, the consideration of the Finance Bill of the year was delayed beyond the commencement of the financial year, and the Bill was finally passed by the Assembly in a form incapable of meeting the financial requirements of the country. In these circumstances the Governor-General resorted to his powers of recommendation and certification under s. 67B of the Government of India Act.

The output of legislation showed a considerable decrease compared with the previous year. Only fourteen measures were passed by the Indian Legislature, and two Acts were made by the Governor-General in exercise of his powers referred to above. Moreover, of the fourteen Acts of the Legislature, no fewer than thirteen were of amending, extending or validating nature. The only substantively new measure was the Coffee Cess Act (No. 14).

1. ACTS OF THE INDIAN LEGISLATURE.

Finance.—Act No. 2 makes minor changes in the tariff rates, and Act No. 4 extends for a further year the Salt (Additional Import Duty) Act, 1931.

Commerce.—Act No. 14, introduced with the approval of the interests concerned, imposes a duty not exceeding one rupee per hundredweight on exported coffee, the proceeds of which are to vest in a committee constituted to promote the cultivation and sale of the commodity. Similar measures already exist in respect of tea, lac and cotton; and Act No. 3 raises the export duty on tea from eight to twelve annas per hundred pounds.

Protection of Labour.—Act No. 5 amends the Mines Act, 1923, in two major directions, giving the miners representation on Mines Boards and tightening up the provisions regulating hours of work. Act No. 11 corrects a small omission in the Factories Act, 1934, by extending the protection afforded to women workers against night work to women employed in factories in a supervisory or confidential capacity.

Administration of Justice.—Acts. Nos. 9 and 10 make small changes in Small Cause Court and Insolvency procedure respectively. Act No. 8 amends various Acts consequential upon the establishment of the High

Court of Nagpur. By Act No. 13 certain doubts as to jurisdiction are removed and proceedings validated in respect of divorce matters in a certain area.

2. MADRAS.

Acts passed—21.

Finance.—Act No. 15 authorizes the imposition of a tax on betting on horse-racing. The tax can be levied on all sums paid into the totalizator, but only on the amount of a backer's winnings (excluding his stake) in the case of bets laid with a bookmaker. The rate may not exceed 4 per cent. in each case.

Local Administration.—Acts Nos. 3 and 4 authorize the Local Government to transfer the servants of local boards or municipalities to service under other local authorities, and in the case of municipalities to fix or modify the staff of these bodies and their salaries. The position of local boards was overhauled by legislation last year, and further changes are introduced during the year under review by Act No. 13. Act No. 15 empowers collectors to nominate minority representation on village courts.

Relief of Indebtedness.—This is a subject to which the Legislatures in India have given considerable attention during the recent slump years, and Act No. 7 is a noteworthy attempt to check the malpractices of certain moneylenders. It requires all creditors of small borrowers and pawnbrokers to keep proper registers written up in Arabic numerals of their transactions with their debtors, to give proper receipts for all payments and to give, on requisition with the prescribed fee, a signed statement of a debtor's account. This statement is to have the same value in evidence as the original account, but the failure of a debtor to challenge its correctness does not estop him from pleading the inaccuracy of the account. Further aid to agriculturists was given by Act No. 16, which extends the purposes of the Agricultural Loans Act to the relief of indebtedness.

Public Health.—Act No. 19, *inter alia*, makes it an offence to give false warranties or descriptions of foodstuffs. Act No. 6 gives maternity benefits for factory workers. An employer must allow his whole-time women employers, who have been in his service for a specified time, leave of absence for this purpose which may extend to seven weeks (including four weeks after confinement). During this period the woman is entitled to eight annas a day from her employer, who may not dismiss her on account of this absence.

Education.—Act No. 11 fills up a lacuna in providing the local authorities with means of enforcing attendance in localities where compulsory elementary education is in force. It also empowers Government to direct district educational councils to grant or refuse recognition to any elementary school or to withdraw a recognition which has been granted.

State Aid to Industries.—A short Act (No. 10) adds to the methods by which such aid can be given by authorizing the supply of electrical energy from government power stations at concessional rates.

Miscellaneous.—The Local Government was empowered by Act No. 12 to declare any Hindu religious endowment or temple to be subject to the provisions of the Hindu Religious Endowments Act, 1926, an enactment to ensure the proper management of the assets of the endowment. Act No. 8 validates certain marriages solemnized by a Christian minister after his licence to perform such ceremonies had been revoked.

3. BOMBAY.

Acts passed—35.

Numerically the year's output greatly exceeded the fourteen enactments of 1934, but a number of the measures consisted of short amending Acts.

Finance.—Act No. 1 continues for a further year the duty on the consumption of electrical energy and the enhanced court-fees and stamp duties imposed in 1932. To counter evasions, a flat rate of stamp duty on share transfers is substituted for the previous *ad valorem* rates. Act No. 2 (slightly amended by Act No. 26) extends with certain changes in the rates the tax on the vend of tobacco for another two years. Act No. 14 validates and imposes fees for driving licences and the registration of motor vehicles and provides for the appropriation of these fees to provincial revenues. This Act, so far as the registration of motor vehicles is concerned, was supplemented later in the year by Act No. 34. This important measure abolishes, save in a few exceptional cases, the toll system which was largely prevalent in this province and substituted higher fees for registration. The proceeds are to be devoted (*a*) to compensating local authorities for the loss of their toll income, (*b*) to the appropriation of a specified sum (about 23 lakhs of rupees (£173,000)) to provincial revenues, (*c*) in the event of any surplus, to the construction and upkeep of roads in the control of local authorities.

Law and Order.—Act No. 27 extends until the end of 1938 an Act of 1932 directed against communism, terrorism and civil disobedience. The 1932 Act is ameliorated to the extent of repealing a provision whereby fines in excess of the limits prescribed by the Indian Penal Code could be imposed for certain offences.

Administration of Justice.—Act No. 11 prohibits the publication of the identity of children concerned, in the rôle either of complainant or accused, in criminal proceedings, and Act No. 17 increases from two years to three the minimum period for which a youthful offender may be sent to a borstal school. Acts Nos. 4 and 21 revise the classification of persons required to submit to measurement and being photographed by the police. Act No. 3 provides for the transfer to Government under certain conditions of funds held by insolvency officials at Karachi.

Industries.—To protect the reputation of Bombay cotton, Act No. 35 was passed authorizing the prohibition of the cultivation of an inferior kind of cotton known as Goghari cotton, the mixing of it with other cotton, or the trading in it or any admixture of it.

Local Administration.—The Local Boards Act, 1923, and the City of Bombay Municipal Act, 1888, were each amended on four occasions during the year. The ground covered included, in the case of local boards, authority to replace them by committees where considered desirable and to remove incompetent or dishonest employees; provision was made to cover the case of the failure of elections in the Bombay Municipality. Act No. 19 amends the Municipal Boroughs Act to provide, *inter alia*, for the control of sky-signs.

Religious and Charitable Trusts.—Act No. 18 follows somewhat the lines of Bengal Act, No. 13 of 1934, in providing for the registration and control of Wakfs (Mohammedan religious trusts), save that powers are vested in the civil courts and not in a provincial board. District Wakf Boards are created for the purpose of advising the courts, and provision is made for the contribution by Wakf estates to a Wakf Fund created for

the purpose of administering the Act. Act No. 25 was another enactment on similar lines : it provides for the registration and supervision of public religious or charitable trusts (confined for the present to those of the Hindu community). The powers are vested in registrars to be appointed from the ranks of the judicial service. As in the Wakf Act, the trusts are required to contribute to the administration of the Act. Neither of these Acts infringes upon the purposes of the trusts, but are directed mainly to exercising control over the accounts to ensure that the property and income of the trusts are properly administered.

Public Health.—Act No. 7 aims at bettering the standard of nurses, midwives and health visitors by giving a status to those who by undergoing suitable training and passing prescribed examinations fit themselves for registration under the Act. This registration is carried out by a Council created for the purpose and consisting of a number of elected members, together with the senior medical officers of Government and the lady superintendents of the chief hospitals in Bombay. The classes concerned are also given representation on the Council. Act No. 23 tightens up the provisions relating to the adulteration of food, particularly in the direction of fatty substances such as butter and ghee. It requires the registration of places where foodstuffs of this nature are manufactured, prohibits the keeping on such premises of matter capable of being used for purposes of adulteration and enforces the maintenance of registers showing the output manufactured and the destination of consignments.

Co-operative Societies.—Act No. 22 provides that when the property of a defaulter cannot advantageously be sold up, the property may vest in the creditor society.

4. BENGAL.

Acts passed—20.

Finance.—The increase in legislation over the previous year is mainly made up by a group of five taxation measures introduced to recoup to some extent the deficit under which this province has been labouring for some years. Acts Nos. 11 and 12 enhance the rates of court-fees and stamp duties and Act No. 13 lowers the limit of exemption from amusements tax enjoyed by the purchasers of lower-priced tickets of admission to entertainments. New ground was broken by Acts Nos. 10 and 14. The former imposes a duty of half an anna per unit of electrical energy consumed in the use of lights and fans except on public utility services, industrial undertakings and the small consumer ; the latter Act levies a tax on the vend of tobacco, graded according as the vendor is classified as a wholesale or retail vendor or a hawker.

Land Improvement.—Act No. 16 was perhaps the most important enactment of the year, and here too the financial condition of the Province was to some extent responsible for the measure. It has long been felt (and this was emphasized by the Royal Commission on Agriculture in India) that the irrigation problems of the Province, particularly of the west and north, were complex in the extreme. Their magnitude makes them a financial impossibility, unless a reasonable return on the capital outlay can be foreseen. This Act permits the Local Government, with the specific permission of the Legislature, to initiate improvement schemes and to notify the areas which will be benefited thereby. Thereafter, Government can impose a levy which may amount to half the increase in

yield which the improvement work will bring about, computed in the manner laid down in the Act. The principle underlying the Act is that Government is entitled to appropriate for the public good a portion of the profits accruing from improvements financed entirely by Government.

Local Administration.—Another important measure was Act No. 8, which thoroughly overhauls the Village Self-Government Act, 1919, in the light of the experience of the intervening years and of the progress made during that period. The more important provisions include an extended franchise, lengthened tenure of office of Union Boards, certain increased powers of expenditure of Union funds, powers to Union Benches to allow the compounding of offences and to deal with first offenders on the lines of the similar powers exercised by the stipendiary magistracy and the grant of enhanced powers of punishment to selected Benches. Government is empowered to dissolve an incompetent or contumacious Board, and to remove an incompetent or otherwise unsatisfactory member of a Bench or Court: this last could only previously be achieved by removing the member from the Board for certain grave reasons. Election disputes were removed from the jurisdiction of the civil courts to that of the district magistrate.

Law and Order.—Act No. 18 extends for another three years the operation of the Public Security Act, 1932, which was aimed at combating movements subversive of law and order.

Protection of Labour.—A short but interesting Act was No. 4. The practice of up-country moneylenders in besetting the places of work of labourers on pay days and pestering and often intimidating their debtors had grown alarmingly in recent years. The Act makes this practice an offence.

Administration of Justice.—Apart from removing doubts as to the correct fee chargeable upon plaints in certain civil suits, Act No. 7 lays down the procedure to be followed when an insufficiently stamped plaint is presented; it further affords increased facilities to courts in determining whether a plaint has been correctly valued for the purpose of assessing the court-fee.

Land Revenue.—Doubts existed whether under earlier enactments interest could legally be charged upon arrears of land revenue: Act No. 17 removes these doubts and makes such interest recoverable as a public demand. The maximum rate of such interest is also prescribed. Act No. 5 determines questions of jurisdiction in respect of land which has accreted by alluviation on or near the boundaries of districts.

5. UNITED PROVINCES.

Acts passed—9.

Three measures of taxation were introduced, seeking to impose a tax on the vend of tobacco and to enhance court-fees and stamp duties, but they were rejected by the Council and were not further proceeded with during the year under review.

National Parks.—Act No. 1 was designed to provide sanctuaries for wild life. By the Act one such park is established and others may be created by notification following a Resolution of the Council. Penalties are imposed for acts violating the sanctuary, with suitable exceptions where human life or property is in danger.

Landholders' Relief.—Act No. 4 amplifies Act No. 25 of 1934 in provid-

ing for the stay of execution and other proceedings against the landholder's property during the pendency of the proceedings under the 1934 Act before the special judge.

Motor Traffic.—Acts Nos. 5 and 6 deal with the registration and control of motor traffic. The former merges in a single provincial tax registration fees under the Indian Motor Vehicles Act, and all taxes and fees previously levied by local authorities. The proceeds vest in a Road Fund, on which the costs of collection form the first charge. The balance is to be distributed in the following order: (i) compensation to local authorities for loss of revenue due to the cessation of local taxation of vehicles, (ii) grants to local authorities for the construction and upkeep of roads, and (iii) the construction and maintenance of roads generally. It is to be noted that unlike Bombay, where a portion of the proceeds are appropriated to general revenues, the whole of the proceeds under this Act are devoted to the roads which the tax-payer uses. The latter Act provides for the co-ordination of motor road transport with other forms of transport, regulates public motor services to the needs of the public, controls rates of fares and the issue of time-tables and generally ensures a higher standard of service.

Law and Order.—Act No. 7 extends for a further five years the provisions of the Special Powers Act, 1932, an enactment on the lines of Punjab Act No. 2 (*infra*).

Local Administration.—Acts Nos. 8 and 9 make permanent the experimental measures passed in 1932 providing for women's representation on municipal and district boards.

6. PUNJAB.

Acts passed—5.

Law and Order.—Act No. 2 supplements the criminal law in dealing with communism, terrorism, civil disobedience and communal disturbance. The Local Government may authorize the arrest without warrant of any person suspected of acting in a manner prejudicial to public safety or peace, or may issue orders controlling the movements of such a person. Police officers may be authorized to attend any public meeting for the purpose of reporting upon it, and it is made an offence to obstruct the police in carrying out this duty. Government may notify any dues to Government or local authorities or land rents, and it is made an offence to instigate the non-payment of any so notified liability. The measure is to be in force for five years. Act No. 4 also supplements the criminal law, but in the direction of suppressing immoral traffic. In addition to fines and imprisonment, the major offences are punishable with whipping in the case of male offenders. After inquiry the district magistrate may order that any place shall cease to be used as a brothel and provision is made for a daily continuing fine in the event of such an order being disobeyed. The tenant of a place in respect of which such an order has been passed may forthwith determine his tenancy.

State Aid to Industries.—Act No. 5 sets up a Board of Industries to advise Government in the matter of applications for State aid to industries. Assistance may be given to new industries, industries newly established in undeveloped areas, cottage industries and industries requiring revival or development on modern lines: it may take the form of loan, grants or leases of land or of any other property of Government,

subsidies to research, supply of machinery on the hire-purchase system or the guarantee of a minimum dividend in joint stock companies. The conditions under which these various kinds of aid can be given are elaborated in the Act.

7. BURMA.

Acts passed—9.

Finance.—Act No. 1 extends the enhanced rates of stamp duties imposed in 1932 for another three years, and Act No. 5 makes a further amendment to the schedule of stamp duties.

Dangerous Drugs.—By Act No. 7 it is made an offence to induce or assist a person under 25 years of age to use or procure opium or to enter an opium-smoking establishment.

Road Traffic.—Act No. 4 provides a solution to the question whether a trolley-bus is to be regarded as a tramcar or a motor vehicle: it includes such a vehicle within the scope of the Tramways Act and excludes it from the operation of the Motor Vehicles Act.

8. BIHAR AND ORISSA.

Acts passed—9.

Public Health.—Act No. 1 is on the lines of Act No. 7 of Bombay (*supra*) and aims at providing a higher standard of efficiency in nurses, midwives and health visitors. Act No. 3 requires the notification of infectious diseases in municipal areas.

Land Tenure.—Act No. 7 amplifies the Bengal Tenancy Act in its application to this province by the inclusion of a chapter aimed at the protection of backward aboriginal tribes. It restricts alienation of land by such persons to leases, sub-leases and complete usufructuary mortgages (for a period not exceeding seven years) in favour of another aboriginal only. Only with the collector's permission may transfers of this nature be made to any other class of person, and his permission is also required for an aboriginal to transfer his land to any class of person by gift, sale or will. Transfers not in accordance with this Act are not to be recognized by the courts and may be set aside by the collector. No decree other than one for arrears of rent of the tenure can be executed against an aboriginal's tenure, and in this case the decree can only be executed by the collector, who may take the alternative course of giving the landlord personal possession for an equitable period.

Co-operative Societies.—Act No. 6 (amended to a small extent by Act No. 8) consolidates the law relating to co-operative societies. The more important provisions cover the exclusion of registered societies from the operation of the Indian Companies Act, registration of bona fide societies, the requiring of at least 35 per cent. of the annual net profits of a society to be carried to a reserve fund, the limiting of investments to government savings banks and the securities set out in the Indian Trusts Act, the audit and inspection of societies' books and powers to the registrar to arrange and sanction compromises between a society and its creditors.

Local Administration.—By Acts Nos. 4 and 5 the term of office of municipal commissioners and members of other local bodies is extended from three to five years.

9. ASSAM.

Acts passed—9.

Land Tenure.—Act No. 3 was a comprehensive measure running to 131 sections and regulating the rights and liabilities between landlord and tenant in temporary settled districts.

Law and Order.—Act No. 7 makes an offence the possession of proscribed literature, or, unless the innocent possession can be established, of any other literature disseminating the cult of violence and terrorism.

Local Administration.—Acts Nos. 4 and 5 lay down the procedure to be followed in election disputes in relation to municipalities and local boards. Act No. 8 provides for the licensing of places of public amusement in municipalities.

Miscellaneous.—Act No. 2 introduces a system for the preparation of vital statistics. Districts are divided into areas under the control of a registrar, who is responsible for the registration of births and deaths occurring in that area. Reports may be made to the local registrar direct or to chowkidars, village watchmen or other persons appointed for the purpose. Reports are to be made within eight days of the event, by a parent or the attending midwife in the case of births and by the nearest male relative present or the occupier of the house in the case of deaths. Failure to report and the giving of false reports are made offences. Act No. 9 provides for the optional registration on payment of a small fee of Mohammedan marriages and divorces. All relevant particulars, including the amount of dower, are recorded, and true copies of the record are given to both parties. Although registration provides a record of the event, it will not validate either a marriage or a divorce illegally performed.

10. CENTRAL PROVINCES.

Acts passed—31.

The output during the year nearly doubled that of the previous year, though several of the measures do not call for detailed comment.

Finance.—Two financial measures were passed during the year, Act No. 16 imposing an all-round increase in court-fees. The Game Act (No. 15) though serving another purpose in affording a measure of protection to game birds and animals is mainly a taxing enactment inasmuch as it prohibits the killing or trapping of game without a licence, distinct from that required for the possession of arms. Such licences may be for a year or for a month, and for all game or for small game only ; the fees range from Rs. 5 to Rs. 20. Though not bearing upon taxation, Act No. 27 is closely connected with the Game Act and may be mentioned here. It is directed to the protection of wild life and prohibits the trapping of certain specified animals and birds. It also enables Government to declare sanctuaries for wild life over any government land and, with the consent of the owners, over other lands.

Relief of Indebtedness.—Three enactments directed mainly towards affording financial relief to landowners and agriculturists were placed on the Statute-Book. Acts Nos. 3 and 4 amend respectively the Tenancy and Land Revenue Acts to permit the reduction of rent or revenue during the continuance of a settlement. Act No. 2 also amends the Tenancy Act to permit an occupancy tenant to offer his holding as security for a loan from a recognized land mortgage bank ; if the bank forecloses on this security,

it is liable for the rent and arrears of rent which may be due on the land in question. The right of pre-emption is also given upon certain conditions to a co-tenant, landlord or heir of the judgment-debtor.

Administration of Justice.—Act No. 6 amends the Indian Reformatory Schools Act in its application to this province to the extent of raising the age of a " youthful offender " from 15 to 16 years ; at the same time it reduces the minimum period for which a youthful offender can be sent to a reformatory school from three years to two. This provision may be compared with Act No. 17 of Bombay (*supra*) by which the law was amended in the contrary direction. Act. No. 17 makes amendments to the Courts Act consequential upon the establishment of the High Court of Nagpur.

Local Administration.—Acts Nos. 20, 21 and 23 deal with municipal franchise. No. 20 disqualifies the defaulting rate-payer ; No. 21 extends the franchise to women having prescribed qualifications and No. 23 regulates the manner in which a company or other association may exercise its franchise. Six Acts cover various aspects of village administration. Act No. 5 gives Government the power to dissolve an incompetent or contumacious panchaiyat (village administration). The powers and duties of panchaiyats are widely extended by Acts Nos. 9 and 24. Act No. 11 extends the jurisdiction of village Benches, and Act No. 25 gives them the power to deal with first offenders. Act No. 9 also empowers a panchaiyat to join with another panchaiyat or other local authority in works or undertakings beneficial to the locality, and by Act No. 24 provision is made for the acquisition of land on behalf of a panchaiyat. Acts Nos. 18 and 19 empower Government to call upon the person holding the funds of a municipality, district council or local board to pay up any sums due under the relevant Acts.

Irrigation.—In the Irrigation Act, 1931, irrigable land included land left fallow " according to agricultural practice " : Act No. 8, *inter alia*, gives greater precision to this definition by substituting " for a period not exceeding three years " for the above words.

Markets.—Act No. 29 was passed to provide for the better management of agricultural markets. Such markets may be established in any area, and other markets may be prohibited within the sphere of a market so established. Market committees are to be set up, on which both the traders and the agriculturists of the neighbourhood are to be represented. Either by rule of the Government or by by-laws of the committees, conditions of trading can be prescribed, including the regulation of trade allowances. Impositions other than the prescribed trade allowances are specifically prohibited. Committees are empowered to issue trading licences upon payment of a fee, and these fees together with fines realized under the Act vest in a market fund to be devoted to the betterment of the market.

11. COORG.

Acts passed—2.

Land Tax.—By Act No. 1 the levy is authorized of a tax of 12½ per cent. on the annual rent value (determined according to principles set out in the Act) of all land, irrespective of the nature of the tenure in substitution for a previously existing " special rate."

Stamp Duty.—Act No. 2 made a solitary change in the rates of stamp duty.

12. NORTH-WEST FRONTIER PROVINCE.

Acts passed—6.

Relief of Indebtedness.—Act No. 5 is on the lines of Madras Act No. 7 (*supra*), except that it requires creditors to furnish their debtors with half-yearly statements of accounts, irrespective of any requisition therefore. Act No. 4 lays down the limits within which rates of interest on loans shall or shall not be deemed excessive.

Mortgage.—Act No. 3 provides a summary procedure for the redemption of mortgages of land in cases where the sum secured does not exceed Rs. 1,000 and the land mortgaged is not more than 30 acres

13. ACTS MADE BY THE GOVERNOR-GENERAL UNDER S. 67B OF THE GOVERNMENT OF INDIA ACT.

Finance.—Passing reference has already been made to the Finance Bill in the Introduction. The taxation sought to be imposed by the Bill as introduced was no severer than in the measure passed by the Legislature in the previous year ; in some directions relief was to be given. The duty on salt and the inland postage rates remained unchanged, while the rate of income-tax on small incomes (below Rs. 2,000 a year) was reduced by 33⅓ per cent. ; a small reduction was also announced in the surcharge upon income-tax. The Assembly nevertheless halved the salt duty, made substantial reductions in the inland postage rates and removed entirely from small incomes the liability for income-tax. These changes involved a loss of revenue of between four and five crores of rupees (£3 to £3¾ millions sterling), and in these circumstances the Governor-General exercised his powers of recommendation and certification, and the Bill passed into law in its original form.

Criminal Law.—The Criminal Law Amendment Act, 1932, and the Indian Press (Emergency Powers) Act, 1931, which were directed against the civil disobedience movement, terrorism and communism, were both due to expire at the end of the year. The Criminal Law Amendment Bill sought to make permanent the majority of the provisions of those two Acts. Exceptions were made of the majority of the provisions directed primarily against civil disobedience ; in view of the considerable abatement of this movement (reference to which was made in last year's report) it was proposed to repeal these provisions. After a lengthy debate, the Assembly refused to take the Bill into consideration, and in pursuance of his special responsibilities, the Governor-General exercised his powers under s. 67B of the Government of India Act.

14. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT.

Three Ordinances were made by the Governor-General under s. 72 of the Government of India Act. The first two were consequent upon the failure of the Assembly to conclude its deliberations on the Finance Bill before April 1, the commencement of the new financial year. No. 1 provides for the continuation of the existing rates of inland postage and No. 2 authorizes the deduction at source of income-tax payable on dividends and salaries. No. 3 implements so far as India was concerned the decision of the League of Nations to apply sanctions to Italy. This

Ordinance was repealed early in 1936 on being endorsed by an Act of the Legislature.

15. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT.

Four Regulations were made during the year, two in respect of Aden and one each of Baluchistan and Ajmer-Merwara; they do not call for special mention.

VIII. EASTERN COLONIES.

1. CEYLON.

[It is hoped to publish this Summary in the next *Review*.]

2. HONG KONG.

[*Contributed by the* Hon. Mr. C. G. Alabaster, O.B.E., K.C., *Attorney-General*.]

Ordinances passed—54.

Incorporation Ordinances.—No less than five institutions found it convenient during the year under review to obtain incorporation and to protect their activities under special Ordinances. These were the Hong Kong Branch of the St. John Ambulance Association (No. 3), the Cheero Club (No. 4), the Hong Kong Travel Association (No. 47), the Girl Guides Association, Hong Kong Branch (No. 51) and the Administration in Hong Kong of the Catholic Mission of Macao (No. 53).

Tobacco Duties.—The Tobacco Amendment Ordinance (No. 5) enabled duties to be imposed on tobacco grown in the Colony. Hitherto they had been imposed only on imported tobacco.

Local Government.—Ever since 1903 the subjects of public health and buildings had been dealt with under different parts of a single Ordinance by different departments of the Local Government administering by-laws made by a Sanitary Board with four official and six unofficial members, two of whom were elected. The year 1935 saw the repeal, by Ordinance No. 7, of the Public Health and Buildings Ordinance, 1903 (with all its amending Ordinances), and its replacement by a number of different Ordinances each dealing with its own appropriate matter. Ordinance No. 7 also abolishes the Sanitary Board and replaces it by a similar but larger body with five official and eight unofficial members, under the somewhat pleasanter title of the Urban Council.

Food and Drugs.—The Adulterated Food and Drugs Ordinance (No. 8) repeals the Sale of Food and Drugs Ordinance, 1896 (which was based on 38 & 39 Vict., c. 63) and replaces it by provisions following as closely as local circumstances justified the provisions of the Sale of Food and Drugs Enactment, No. 9 of 1913, of the Federated Malay States. Other aspects of the sale of food are dealt with by the Public Health (Food) Ordinance (No. 13). It prohibits the sale or exposure for sale of tainted, diseased or unwholesome food, gives the Urban Council power to make by-laws relating to dairies and milk shops, food factories and shops, markets, restaurants, eating-houses and slaughter-houses, the slaughter of animals

and generally for the control of food including the prohibition of its importation where necessary. Other aspects of the control of drugs are dealt with by the Dangerous Drugs Ordinance (No. 35), which consolidates and amends the law relating to such drugs on the lines generally of the legislation in England and of certain model clauses relating to the importation, exportation and transit of dangerous drugs which had been received from the Colonial Office.

Sanitation.—The Public Health (Sanitation) Ordinance (No. 15) contains in revised form the provisions of the repealed Public Health and Buildings Ordinance, 1903, which it was considered suitable to group under sanitation. It enables the Urban Council to make by-laws dealing *inter alia* with basements, the keeping of cattle, swine, sheep and goats, cemeteries, conservancy, dangerous and offensive trades, latrines, laundries, mosquito prevention and scavenging.

Animals and Birds.—Reference has been made in the preceding paragraphs to the control of the slaughter of animals and the keeping of cattle, swine, sheep and goats under Ordinances Nos. 13 and 15 of 1935. Animals were dealt with also by two other Ordinances of the year under review. The Public Health (Animals and Birds) Ordinance (No. 16) consolidates and amends the law relating to quarantine and the prevention of disease among animals and birds and enables the Urban Council to make by-laws to that end. The Prevention of Cruelty to Animals Ordinance (No. 44) is founded mainly upon the provisions of the Straits Settlements Ordinance, No. 10 of 1930, the regulations made thereunder and the repealed Hong Kong Live Stock Import and Export Ordinance, 1903, and regulations thereunder.

Buildings.—The law relating to the construction of buildings is amended and consolidated by the Buildings Ordinance (No. 18).

Appeals from Magistrates.—The Magistrates Amendment Ordinance (No. 19) adds to the provisions of the Magistrates Ordinance, 1932, relating to appeals, nine new sections providing an alternative procedure based on s. 37 (1) of the Criminal Justice Administration Act, 1914, s. 25 of the Criminal Justice Act, 1925, s. 46 of the Supreme Court of Judicature Act, 1873, and the first seven sections of the Summary Jurisdiction (Appeals) Act, 1933.

Stamp Law.—The Stamp Amendment Ordinance (No. 20) amends the principal Ordinance of 1925 by including the amendment made by s. 42 of the Finance Act, 1933, in the English law, on which the local provisions relating to bills of exchange are based. The effect of the amendment is that a bill presented for acceptance, or accepted, or payable outside the Colony is not invalid by reason only that it does not comply with the stamp laws. If unstamped, or not properly stamped, it may be received in evidence on payment of the proper duty and penalty. The Ordinance also enacts a provision on the lines of s. 23 of the Stamp Act, 1891.

Tokens.—The private issue of metal tokens for money is prohibited by the Tokens Ordinance (No. 26) which contains provisions based on s. 5 of the Coinage Act, 1870, and on two statutes of the reign of George III (52 Geo. 3, c. 157, s. 1 and 57 Geo. 3, c. 46, s. 1).

Lunacy.—The Lunacy (Payment of Public Allowances) Ordinance (No. 27) enacts a provision generally on the lines of s. 335 of the Lunacy Act, 1890.

Merchant Shipping.—The Merchant Shipping Amendment Ordinance (No. 28) makes various amendments in the principal Merchant Shipping

Ordinance, 1889, which are consequential on the issue by His Majesty of the Merchant Shipping Safety Convention (Hong Kong), No. 1 Order and No. 2 Order relating to the extension to the Colony and to ships registered therein of certain provisions of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932.

Larceny.—The Larceny Ordinance (No. 32) consolidates, amends and simplifies the law relating to larceny and kindred offences so as to bring it into line with the provisions of the Larceny Acts of 1861 and 1916. The arrangement of the 1916 Act has been followed and in sections based on the earlier Act nearly resembling other sections in the 1916 Act; the language of the later Act has been adopted in order to secure a uniform style.

Falsification of Documents and False Personation.—The Falsification of Documents Ordinance (No. 33) repeals the Corrupt Practices (Documentary) Ordinance, 1865, and collects into one enactment various provisions relating to the falsification of documents which could not be conveniently included under the Forgery Ordinance, 1922, or under any special Ordinance and which were based on s. 1 of the Falsification of Accounts Act, 1875, s. 1 of the Banking Companies (Shares) Act, 1867, and ss. 5, 6, 28 36, 37, 44, 49 and 51 of the Forgery Act, 1861. Similarly, the False Personation Ordinance (No. 34) collects various provisions relating to that subject. It is based on s. 12 of the Inland Revenue Regulation Act, 1890, ss. 1 and 2 of the False Personation Act, 1874 and ss. 3, 34, 44, 49 and 51 of the Forgery Act, 1861.

Offensive Telephone Calls and Telegrams.—The Summary Offences Amendment Ordinance (No. 36) enacts the provisions of s. 10 (2) of the Post Office (Amendment) Act, 1935, relating to the sending of grossly offensive matter by telephone and to false and malicious telephone messages and telegrams and adapts them so as to include messages by telegraph, telephone, wireless telegraphy or wireless telephony.

Deportation.—The Deportation of Aliens Ordinance (No. 39) consolidates and amends slightly the law relating to this subject.

Medical Registration.—Another consolidation Ordinance was the Medical Registration Ordinance (No. 41).

Currency.—The steady rise in the price of silver during the year under review led to the Colony going off silver as the basis of its currency. Silver dollars disappeared from circulation, and to replace them the Colonial Treasurer was authorized to issue and reissue one dollar currency notes in the Colony, which are made legal for the payment of any amount by the Dollar Currency Notes Ordinance (No. 42), which also establishes a Note Security Fund into which the Treasurer is required to pay all moneys he receives for such currency notes. Under the Currency Ordinance (No. 54) the bank notes lawfully issued by the three note-issuing banks are made legal tender up to any amount. These banks are, however, required to surrender to the Colonial Treasurer all silver coin and silver bullion which they had previously been required to deposit against their note issues, and everyone holding British dollars, Mexican dollars, Hong Kong subsidiary silver coin or silver bullion exceeding in amount or value ten dollars is required to surrender the same. Provision is made for the issue of Certificates of Indebtedness and for the establishment of an Exchange Fund for the purpose of regulating the exchange value of the Colony's currency.

Infants Custody.—The Infants Custody Ordinance (No. 48) repeals the Infants Custody Ordinance, 1886, and enacts new provisions based on s. 5

of the Guardianship of Infants Act, 1886, ss. 3, 7 and 8 of the Guardianship of Infants Act, 1925, s. 16 of the Administration of Justice Act, 1928 and s. 2 of the Custody of Infants Act, 1873.

Separation and Maintenance Orders.—Ordinance No. 49 repeals the Married Women (Desertion) Ordinance, 1905, and enacts provisions based on s. 3 of the Habitual Drunkards Act, 1879, s. 5 of the Licensing Act, 1902, ss. 1, 3, 4, 5 and 6 of the Summary Jurisdiction (Separation and Maintenance) Act, 1925, ss. 4, 5, 6, 7 and 10 of the Summary Jurisdiction (Married Women) Act, 1895, and s. 1 of the Married Women (Maintenance) Act, 1920.

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—64.

The year has been one of intense and, as to at least four subjects—bankruptcy, money-lending, law revision, infanticide and intoxication in their criminal aspect—of far-reaching legislative activity in the Colony.

Aviation.—Ordinance No. 46 (Air Navigation), repealing the prior Ordinance of 1914 on the subject, provides, on the one hand (ss. 4, 5 and 7), for the delimitation of protected areas over which the transport by aircraft of explosives and photographic apparatus is forbidden, and, on the other (s. 6), empowers the Governor to make rules (not inconsistent with any Treaty or Convention applicable to the Colony) relating to aerial navigation and having in view particularly the safety of the public, or the defence of the Colony and its revenue.

Ordinance No. 53 (Volunteer Air Force) provides for the creation of a Volunteer Aviation Corps for the Colony, in the same manner as Ordinance No. 30 of 1921 has provided for a Volunteer Land Force.

Bankruptcy.—In substitution of the unduly long and expensive procedure hitherto prescribed by Part VI (ss. 104 and 105) of the Bankruptcy Ordinance, 1888,[1] this new amending Ordinance, No. 32, prescribes a more expeditious and economical procedure in the case of insolvent "wage-earners," i.e. debtors whose only source of income is a salary or wage of $350 or less.[2]

The jurisdiction of the District Court to make administration orders when the total debts do not exceed $500 is withdrawn, and, in lieu thereof, the Registrar of the High Court can, in the first instance,[3] make a "wage-earner's administration order," provided the Official Assignee in Bankruptcy has first certified in writing, upon investigation, that none of the debts of the petitioning debtor was contracted by him in any trade or business. No limit is placed on the debtor's total debts. The Legislature here has been actuated by the same motives as in controlling the activities of moneylenders,[4] for it had been common knowledge for some time past that the constantly increasing impecuniosity of clerks and other similar wage-earners was due to their resorting to money-lenders.

[1] Founded on the procedure prescribed in England for "small bankruptcies," by ss. 121, 122, Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), and subsequently by s. 129, Bankruptcy Act, 1914 (4 & 5 Geo. 5. c. 59).

[2] Income not exceeding $50 per month, arising out of land or shares in an incorporated company (in the management of which the debtor takes no part) or from any other non-trading or non-commercial source, is to be deemed part of his "salary" or "wage."

[3] Only in certain special circumstances is the matter to be referred by the Registrar to the Judge of the High Court.

[4] See *infra*, Ordinances Nos. 6 and 57.

The main departures from the law hitherto in force consist in the facts that: (1) the profession and the monthly salary (limited to $350), and not, as heretofore, the amount of the aggregate debts (not exceeding $500), form the criterion of the special jurisdiction now conferred upon the Registrar; (2) the administration of the bankruptcy law and the records connected therewith, instead of being divided, as heretofore, between two courts—the High Court and the District Court—are now centralized in the High Court alone; (3) contrary to the traditional policy of British bankruptcy law since 1883, the executive, in the person of the Official Assignee, intervenes now at an earlier stage in the proceedings than the judiciary, and, in fact, the intervention of the latter in the person of the Registrar of the High Court is subject to the former having granted his fiat; (4) The person who moves the court for a "wage-earner's administration order" is the debtor alone, and not the creditor.

The other modifications in point of practice are that: (*a*) the debtor against whom a wage-earner's administration order is made is not called a "bankrupt"; (*b*) the public examination is dispensed with; (*c*) the Registrar, besides being invested with the power to make the initial administration order, may also make, vary or revoke orders for the appropriation of part of the debtor's salary to creditors and hear applications for his discharge.

Large numbers of the salaried population of the Colony have already availed themselves of this new beneficent legislation, which apparently has enabled them to liberate themselves from their rapacious creditors; but whether it will check improvidence permanently remains yet to be seen.

Law Revision.—Since the separation of the Straits Settlements in 1866 from the territories of the East India Company, and their constitution as a distinct entity under the Colonial Office, there had already been five revisions or consolidations (in 1886, 1889, 1898, 1920 and 1926) of the Ordinances and Indian Acts in force in the Colony. The present edition —which, actually published in August 1936,[1] is the sixth in point of time— abandons the chronological order which had hitherto been followed and groups the Ordinances in "Titles,"[2] under which the Ordinances treating of the specific subjects comprised therein are assembled, and numbered consecutively as "chapters" (*Capitula*). To all intents and purposes, therefore, this revised edition (embodying 240 public and 25 private Ordinances) is perhaps the nearest approach one can have in British countries to codification. It has been realized that many Ordinances might with equal propriety have been differently grouped; but, in view of the advanced stage of development of the Colony, some effort at codification, by means of logical grouping of subjects, is likely to be more practically useful than the merely chronological arrangement that had been adopted in the past[3] (Nos. 38 and 63).

[1] Being the fruit of the labours of Mr. P. A. McElwaine, K.C., Attorney-General, who has since been elevated to the office of Chief Justice of the Colony.

[2] E.g. Title III, Administration of Justice; Title V, Statistics; Title XIV, Means of Communication; Title XVII, Lands.

[3] It is interesting to observe that the year 1935 saw the codification of the legislation not only of the Straits Settlements, but also of several of the adjacent Protected States of Malaya and Borneo, e.g. (1) *The Federated Malay States Enactments*, in 4 vols., by W. S. Gibson, Legal Adviser; (2) *The Enactments of Johore*, in 3 vols., by W. H. Thorne, Judge, and M. C. Hay, Legal Adviser; (3) *The Laws of Kedah*, in 2 vols., by G. B. Kellagher, Judge; (4) *The Laws of Sarawak* (1927–35), 1 vol., by T. Stirling Boyd, Chief Justice.

Money-lenders.—For the first time in the history of the Colony,[1] after many years of agitation, has an attempt been made to control by law the activities of money-lenders. The Legislator has, however, had to feel his way cautiously, as his path has been beset with difficulties. The immense (and, in the eyes of some, formidable) growth of the business of money-lending, practised not only by professional money-lenders but also by many others as a subsidiary source of income, had long made official supervision imperative, though opinions were divided as to the form of that supervision.

Ordinance No. 6, drafted by a special Commission as far back as 1933, on the lines of the law in force in Great Britain,[2] and in Ceylon,[3] proceeded upon the principle that the licensing and registration of money-lenders would provide an effective means of control, and, at the same time, ensure to respectable money-lenders a definite standing and recognition. Passed by the Legislative Council and assented to by the Governor on March 6, 1935, its operation was, however, on the representations of two important sections of the Indian money-lending community—the Nattu Kotai Chettiars, hailing from the Madras Presidency (South India), and the Sikhs, hailing from the Punjaub (Northern India)—deferred successively till July 1, 1935, January 1 and July 1, 1936.

In the meantime (November 18, 1935) an amending Bill was prepared, notable for its departure from the principle of licensing inaugurated by Ordinance No. 6, and accordingly Ordinance No. 57 in its final form repeals all the provisions (ss. 4 to 8 inclusive of the earlier Ordinance) relative to licensing or registration of money-lenders, while securing its main objects by amplifying or otherwise recasting its provisions.

The combined effect of the principal (No. 6) and amending (No. 57) Ordinances, which definitely came into force only on July 1, 1936, is therefore that a written note or memorandum in writing in English is to be given by the lender to the borrower at the time of each transaction (s. 9).[4] Compound interest is forbidden (s. 10). Regular account-books with the figures or numerals written in English (s. 11) are, on pain of certain disabilities and penalties, to be kept by money-lenders and produced in court in case of litigation, and copies, with full particulars, supplied on request to the borrower (s. 12). "Harsh and unconscionable" transactions may be reopened by the court (s. 14); and, in particular, interest over 48 per cent. is to be deemed excessive, nor, in any case, is the amount of interest recoverable by a money-lender to exceed that of the principal, nor can a non-money-lender recover more than 20 per cent. interest on any loan made by him (s. 15).

[1] With the exception, however, of Labuan, which, though situated off the north-west coast of Borneo, forms administratively since 1907, as is well known, part of the Settlement of Singapore, and possessed since 1902 a special Ordinance of its own dealing with the subject (*vide* Ordinance No. 127 (Labuan), Chap. VII, ss. 89–95, in the *Laws of the Straits Settlements*, 1926 Edition).

[2] See Moneylenders Act, 1927 (17 & 18 Geo. 5. c. 21). The contention that this Statute, as forming part of "mercantile law," applied by virtue of the Straits Settlements Ordinance No. 111 (Civil Law), s. 5 (1), to the Colony, was advanced without success in the recent case of *Bajarai* v. *Sockalingam Chettiar*, L.R., [1933] A.C. 342.

[3] Ceylon Moneylenders Ordinance, No. 2 of 1918.

[4] This was the requirement of English law, which, it had been vainly contended in the above-mentioned Privy Council case of *Bajerai* v. *Sockalingam Chettiar*, [1933] A.C. 342, was applicable by virtue of the Civil Law Ordinance of 1907 to dealings with money-lenders in the Colony.

Penal Code.—The first of these new Ordinances (No. 1) introduces into the Penal Code[1] new provisions (ss. 309A, 309B) conforming to the Infanticide Act, 1922, of Great Britain (12 & 13 Geo. 5. c. 18), and providing that, a woman still labouring under the effects of recent child-birth and causing the death of her child may be punished, at the discretion of the court, with a penalty less severe than death. Her deed, punishable in England as "manslaughter," is thus made punishable in the Colony as "culpable homicide not amounting to murder."

The second Ordinance (No. 16) modifies ss. 85 and 86 of the Penal Code by making the law as to intoxication in its relation to criminal intent accord more closely with the House of Lords ruling in the case of *Director of Public Prosecutions* v. *Beard*, L.R., [1920] A.C. 479.

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—23.

The legislation here has been smaller in volume and of less importance than in the Straits Settlements. In fact, the only one that calls for special mention is the Enactment relating to—

Carriage by Air.—This Enactment (No. 6) gives effect to the Warsaw International Convention (October 12, 1929) for the unification of the rules relating to carriage by air, and follows closely the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order in Council of 1934.

Cession of Territory.—Among the Enactments passed (16 in number) in the individual States of the Federation, the Dindings Cession Enactment (No. 2, State of Perak) deserves mention. Dindings Island, situate off the mainland of Perak State, having by Agreement of June 6, 1934, to be retroceded to that State by the Government of the Straits Settlements as from February 16, 1935, this Enactment substitutes thenceforth (ss. 3 and 8) the law, customs and judicial decisions of Perak for the law of the Colony. Rights acquired or liabilities incurred under the law of the Colony are, however, preserved (s. 4), and the nationality of any person domiciled or ordinarily resident in the Dindings at the date of the retrocession is not to be affected (s. 6). Detailed provision (ss. 11–13) is also made for the exchange of titles to land and the issue of new documents of title under the Federated Malay States law providing for registered titles.

5. MAURITIUS.

[*Contributed by* FRANCIS HERCHENRODER, ESQ., *Acting Procureur-General.*]

Forty-six Ordinances were passed by the Council of Government and assented to by the Governor between February 1 and November 21, 1935. Several of these, rather of domestic concern, deal with: the removal of sand from Crown lands and seashore; the protection of stall-renters in the municipal markets against competition by hawkers within a radius of 1 kilometre from such markets; co-operative credit societies; the lease of fishing and shooting rights on lands belonging to Government; poll tax; the manufacture of perfumed spirits in the Colony. Others attempt to work for economic organization and progress, the more important

[1] Which was originally borrowed from India in 1873.

being: (1) an Ordinance to provide for assistance to the Sugar Industry in the form of a guarantee by Government to the London Banks for credit opened to the local banks to an amount not exceeding £450,000. (No. 2); (ii) an Ordinance authorizing the settlement of liabilities contracted during the India rupee regime in the new Mauritius Currency enacted by Ordinances Nos. 13 and 39 of 1934 (No. 18); (iii) an Ordinance abolishing certain small licences; (iv) an Ordinance authorizing the partial levy of the special export duty on the sugar of the 1935–6 crop with a view to affording some measure of relief to the Sugar Industry (No. 44). Social progress is also achieved in the matters following:

Industrial Schools.—Ordinance No. 8 provides for the establishment of schools for the detention and reformation of young offenders who receive therein ordinary and industrial education during their period of detention.

Capital Punishment.—Ordinance No. 9 brings the local law into line with the English law by prohibiting the passing of sentence of death on pregnant women.

Infanticide.—Ordinance No. 10 amends the local Penal Code by importing into it the provisions of the English law in regard to offences connected with the killing of a newly-born child.

Juvenile Offenders.—Ordinance No. 11 institutes special courts for the hearing of charges brought against juvenile offenders defining the jurisdiction of such courts and providing for the procedure in connexion with such charges.

Minors Incorporeal Chattels or Rights.—Ordinance No. 46 authorizes the sale by guardians, subject to the control of the family council, the Ministère Public and the courts, of undivided shares in incorporeal rights inherited by minors and interdicted persons without the necessity of resorting to a previous partition of the succession from which such rights depend.

Customs Duties.—Ordinance No. 45 effects a reduction of the preferential rate of duty leviable on certain articles and certain other amendments to the local Customs tariff.

6. SEYCHELLES.

[*Contributed by* M. C. Nageon de Lestang, Esq., LL.B. (Lond.), *Acting Legal Adviser.*]

Twenty-nine Ordinances were enacted during the year 1935, the most important of which relate to the following subjects:

Disorderly Houses.—Ordinance No. 1 makes provision for the suppression of disorderly houses. It enlarges the scope of the existing law on the subject and increases the penalty.

Deportation.—Ordinance No. 3 regulates the deportation of undesirable British subjects. The principle behind this elaborate Ordinance is that the Colony should be prepared to accept responsibility for its own "undesirables" and should not attempt to use the instrument of deportation as a means of thrusting that responsibility on some other part of the Empire. The Ordinance provides that any order for deportation shall be made by the Governor in Executive Council and that such an order shall in all cases be preceded by a judicial inquiry.

Prisons.—Ordinance No. 16 increases the Superintendent of Prisons' powers of punishment for minor prison offences which are unreasonably limited under the Prisons Ordinance.

Essential Oils.—Ordinance No. 19 controls the export and marketing of essential oils with the object of securing an improvement in the local essential oils industry. The oil can only be exported to an agent appointed by the Governor, and he operates as broker, completing contracts between seller and buyer on a commission basis.

Newspaper.—Ordinance No. 20 regulates the printing and publishing of newspapers within the Colony. Without interfering with the liberty of the press the Ordinance contains useful provisions, in the first place ensuring the substantial and responsible character of persons publishing a paper and in the second place permitting effective suppression by the court of publication of a newspaper for a period not exceeding three years on conviction of certain press offences. It also provides for the compulsory publication of official communications in newspapers with a view to contradict misleading reports or statements and to repair mischief that may be done by inaccuracies or deliberate misrepresentations.

Liquor.—Ordinance No. 23 provides for the control of the manufacture and consumption of the liquor called "Toddy," a juice obtained from the coco-nut palm-tree. It gives effect to the recommendations of a Committee appointed to deal with the subject and permits the manufacture for private use of toddy, which was hitherto prohibited.

Road Traffic.—Ordinance No. 24 consolidates and brings up to date the law relating to the use of vehicles on the road.

Dangerous Drugs.—Ordinance No. 26 consolidates and amends the existing legislation on the subject of opium and other dangerous drugs and embodies the provisions of the International Opium Convention of 1931.

Penal Code.—Ordinance No. 28 prohibits the passing of the death sentence upon expectant mothers and brings the local law in that respect in line with the English law, *i.e.* the Sentence of Death (Expectant Mothers) Act, 1931.

7. STATE OF NORTH BORNEO.

[*Contributed by* C. F. C. Macaskie, Esq., *Legal Adviser.*]

Nine Ordinances were enacted during 1935.

The Treaty of Peace (Covenant of the League of Nations).—Ordinance No. 1 gives effect to economic sanctions against Italy in accordance with the sanctions imposed by orders of His Britannic Majesty in Council.

Air Navigation.—Ordinance No. 2 amends the Air Navigation Ordinance, 1930, in order to bring the local law into conformity with international conventions. It is modelled on similar legislation in the Federated Malay States.

The Carriage by Air Ordinance, No. 5, enables the Governor to give the International Convention of 1929, for the unification of certain rules relating to international carriage by air, the force of law in the State.

Cinematograph.—Ordinance No. 3 is a brief enactment to enable Government to control by licences the making of cinematograph pictures for public exhibition.

Copyright.—Ordinance No. 4 makes provision for the protection of original literary, dramatic, musical or artist works. It closely follows similar legislation in the Federated Malay States.

Lunatics.—Ordinance No. 6 repeals the former Ordinance, No. 7 of 1914, and consolidates the law relating to the custody of lunatics.

Banishment.—Ordinance No. 7 remedies an omission in the Banishment Ordinance, 1901, by expressly excluding any native of a tribe indigenous to the State from liability to banishment.

Revised Edition of the Laws.—Ordinance No. 8 appoints a Commissioner for the purpose of preparing a new and revised edition of the Ordinances of the State. In form the Ordinance follows the usual colonial model.

Arms and Explosives.—Ordinance No. 9 repeals the former Ordinance, No. 5 of 1914, and consolidates the law relating to the possession of arms and explosives. Licensing officers are empowered to insist upon the repair of, or if necessary to confiscate, damaged firearms which are likely to be dangerous to their users.

8. SARAWAK.

[*Contributed by* T. STIRLING BOYD, ESQ., *Chief Justice.*]

A revised edition, incorporating all amendments, of the Orders (as statutes are called in Sarawak) enacted from August 1, 1927, until December 31, 1935, was published in 1936. The greater part of the statute law of the State is now to be found in this volume, but in addition there is a volume, published in 1933, which contains what survive of the Orders enacted before August, 1927, and a few Orders relating to Customs and Shipping are published separately in a third volume. The Code of Criminal Procedure and the Penal Code are also published as separate volumes. An article in the *Journal*[1] describes the material sources of the law in greater detail. The new volume consists of seventy-one Orders. A short summary is given below.

Constitutional Law.—Order No. C–1 sets up the Committee of Administration and prescribes its powers and duties, and Order No. F–3 sets up the Finance Committee. These Orders are more particularly described in the article mentioned above in the *Journal.* They were repealed in 1936 and re-enacted by a new Order with several amendments, the most important of which are that the Committee of Administration has power to make recommendations regarding all matters of general administration (s. 7) and that all State Orders which it is proposed to enact shall be referred to it. By s. 9 the Finance Committee ceases to be an independent body and is constituted as a sub-committee of the Committee of Administration.

General Law.—Under this head may be grouped Order No. L–1 (Law of Sarawak) which, subject to the appropriate qualifications, applies English law to Sarawak. There are also Orders dealing with such subjects as Administration of Deceased Persons' Estates, Bankruptcy, Companies, Copyright, Estate Duties, Interpretation, Marriage, Matrimonial Causes, Oaths, Partnership and others.

Departmental Legislation.—What may be called departmental legislation includes Orders relating to Immigration, Labour Protection, Land, Land Settlement, Municipal, Post Office and various others. The Order on Land Settlement provides for a new system of land registration (based on the Torrens system) which is to be introduced gradually throughout the State.

Miscellaneous.—There are also a number of Orders on miscellaneous subjects which need not be set out in detail. They include Orders on

[1] Third Series, vol. xviii, pt. i, at p. 65.

Air Navigation and Carriage by Air which incorporate the provisions of the International Convention on these subjects, and Orders dealing with such subjects as Rubber Restriction, Vagrancy and Women and Girls' Protection.

IX. WEST AFRICA.

1. GAMBIA.

[*Contributed by* A. G. B. Manson, Esq., *Legal Adviser.*]

Ordinances passed—21.

The Ordinances which call for special comment are:

Dangerous Drugs.—Ordinance No. 1 makes provision with regard to the importation, exportation, manufacture, sale or use of dangerous drugs in accordance with the Geneva and Hague Conventions.

Wharves.—Ordinance No. 4 makes provision for the licensing of wharves and other matters relating thereto.

Courts.—Ordinance No. 5 establishes in the Protectorate Provincial Courts with civil and criminal jurisdiction clearly defined.

Survey of River Craft.—Ordinance No. 8 confers power on the Navigation and Pilotage Board to make by-laws providing for the grant of certificates of competency as river masters, quartermasters and engine-drivers and also for the survey of motor or steam vessels and for the appointment and duties of licensed surveyors.

Midwives.—Ordinance No. 14 makes provision for the training and registration of midwives and regulates their practice.

Defence.—Ordinance No. 16 establishes a Naval Volunteer Defence Force.

Education.—Ordinance No. 17 repeals all earlier legislation on this subject and makes detailed provision for the promotion of education.

Probate.—Ordinance No. 19 provides for the recognition in the Colony of probate and letters of administration granted in His Majesty's Dominions or by a British court in a foreign country.

2. THE GOLD COAST.

[*Contributed by* G. L. Howe, Esq.]

Eighteen Ordinances were enacted during the period under review, of which the most important were the following:

Courts.—The Gold Coast Ordinances Order in Council of November 9, 1934, provided that a single Ordinance may be made for the Colony and Ashanti or for the Colony, Ashanti and the Northern Territories. The enacting authority for the Colony is the Governor with the advice and consent of the Legislative Council and for Ashanti and the Northern Territories the enacting authority continues to be the Governor alone.

The Courts Ordinance (No. 7) was one of the first legislative acts after the Orders in Council and repeals the old Supreme Court Ordinance of 1876 and extends the jurisdiction of the Supreme Court to the whole of the Gold Coast.

The Togoland under British Mandate Order in Council of November 9, 1934, provides that the new Supreme Court should function throughout the Northern Section of Togoland as if that Section formed part of the

Northern Territories and should function throughout the Southern Section as if that Section formed part of the Eastern Province of the Colony.

The Rules of Procedure under the Courts Ordinance remain practically the same as under the repealed Supreme Court Ordinance, but changes are made in the constitution of the Court and new courts are established.

Under the repealed Supreme Court Ordinance the judges of Nigeria were *ex-officio* judges of the Supreme Court, and the Courts Ordinance changes the constitution by the inclusion of the judges of Sierra Leone and the Gambia in addition to the Nigerian judges.

The new courts established are : (i) The Supreme Court of the Gold Coast, whose jurisdiction extends to Ashanti and the Northern Territories and the Colony as a single territory. Except in special cases, the Supreme Court has no jurisdiction in cases cognizable by a Native Tribunal, a Provincial Commissioner or the Chief Commissioner of Ashanti or the Northern Territories. It is the Court of Appeal from the decisions of the Magistrates Courts ; (ii) Magistrates Courts, which take the place of District Commissioners Courts, the policy being the separation of the executive and judicial functions of District Commissioners. Appeals from Magistrates Courts lie to a Divisional Court of the Supreme Court ; (iii) Provincial Commissioners Courts, which hear appeals from the decisions of Native Tribunals, and have also first instance jurisdiction in certain land cases between Chiefs. Appeals from this Court in land cases lie direct to the West African Court of Appeal ; (iv) The Chief Commissioners Court of Ashanti and the Chief Commissioners Court of the Northern Territories. These Courts have first instance jurisdiction in land cases in which a chief is a party and hear appeals from Magistrates Courts and Native Courts in accordance with and subject to the respective Native Courts Ordinances.

The Courts Ordinance also substitutes for the rule-making body of the Chief Justice and a Puisne Judge under the repealed Supreme Court Ordinance, a rule-making body consisting of the Chief Justice, a Puisne Judge, the Attorney-General and two advocates of not less than ten years standing nominated by the Gold Coast Bar Association.

Criminal Procedure Code.—Ordinance No. 10 introduces for the whole of the Gold Coast a new Code of Criminal Procedure in place of the old Criminal Procedure Ordinance (c. 31) which had become obsolete, and is based on recent legislation enacted in other dependencies. The Ordinance grants to persons convicted by courts of summary jurisdiction a right of appeal on the facts as well as on points of law.

Dangerous Drugs.—Ordinance No. 29 gives effect to an International Convention of 1931 for the purpose of supplementing the Second Opium Convention. The Convention of 1931 agreed to the extension of the principles of the Convention in a modified form to classes of derivatives of opium, and to the manufacture of derivatives of coca leaf. This Ordinance also repeals the existing laws, and the new Ordinance now applies to the whole of the Gold Coast.

Ordinances Extension.—Ordinance No. 30 applies to Ashanti and the Northern Territories or to Ashanti only with necessary modifications, many of the Colony Ordinances. This Ordinance will facilitate the compilation of a revised edition of the laws of the Gold Coast.

Mining Health Areas.—Ordinance No. 19 extends the Mining Health Areas Ordinance (c. 106 of the Colony) to the whole of the Gold Coast. The Mining Health Areas Ordinance makes provisions for the health and

housing of mine labourers and the general sanitation of mining areas. The regulations made under the Ordinance provide for the sanitation and condition of buildings in mining health areas, for proper medical attention and, in certain cases dependent on the number of labourers employed, for the building and maintenance of a hospital. The working of these provisions is subject to the supervision of the Director of Medical Services.

Notaries Public.—Ordinance No. 26 provides for the appointment of fit and proper persons as notaries public for the Gold Coast to discharge the duties assigned to such office by the laws of England and the Gold Coast or by the practice of commerce.

A notary public on appointment becomes an officer of the Supreme Court.

(i) GOLD COAST COLONY AND ASHANTI.

Two Ordinances were enacted during the period under review.

Railways.—Ordinance No. 27 replaces the existing Ordinance by an enactment which provides more adequately for the needs of a modern railway. The rights of persons using the railway are precisely defined.

Bills of Exchange.—The Ordinances Extension Ordinance (30 of 1935) extended the Bills of Exchange Ordinance (c. 10 of the Colony) to Ashanti. This new Ordinance (No. 10) amends the provisions regarding the noting of dishonoured bills.

(ii) GOLD COAST COLONY.

Seventeen Ordinances were enacted during the period under review, of which the most important were the following:

Labour.—Ordinance No. 21 gives statutory effect within the Gold Coast Colony to the Convention concerning forced or compulsory labour which was confirmed and approved by His Majesty's Privy Council in May 1931.

Bananas (Control of Exportation).—Ordinance No. 24 gives power to the Governor to prohibit the export of bananas except under licence. The control facilitated the making of a contract with a shipping company for carriage of bananas to Liverpool and has for its object the economical marketing of bananas and the development of this new industry.

(iii) ASHANTI.

Twelve Ordinances were enacted during the period under review, of which the most important were the following:

Labour.—Ordinance No. 32 gives effect within Ashanti to the Convention concerning forced or compulsory labour which was confirmed by His Majesty's Privy Council on May 12, 1931, and follows the Colony Ordinance (No. 21 of 1935).

Obuasi Sanitary Board.—Ordinance No. 36 establishes for the town of Obuasi a sanitary board having powers to take all necessary measures for the public health of the town and to provide for public recreation grounds and open spaces. The Board has power to make by-laws.

(iv) NORTHERN TERRITORIES OF THE GOLD COAST.

Seven Ordinances were enacted during the period under review, of which the most important were:

Native Courts.—Ordinance No. 31 provides for the establishment of Native Courts with jurisdiction in certain civil and criminal cases in which

all the parties are natives. It follows the lines of the Ashanti Native Courts Ordinance (No. 3 of 1935) and replaces the Northern Territories Native Tribunals Ordinance.

Labour.—Ordinance No. 33 follows the Ordinances of the Colony and Ashanti.

(v) TOGOLAND UNDER BRITISH MANDATE.

Two Ordinances relating to administration were enacted during the period under review.

3. NIGERIA.

[*Contributed by* A. R. W. Sayle, Esq., *Crown Counsel.*]

Ordinances passed—48.

The following is a summary of the more important enactments of general interest during the year 1935.

Wireless Telegraphy.—Ordinance No. 3 was enacted in view of the increasing interest in and development of wireless telegraphy, and it was considered necessary to replace the somewhat meagre provisions of the Wireless Telegraphy Ordinance (c. 45) by a more comprehensive measure. The Ordinance provides that licences for radio distribution stations, telephone broadcasting stations, land stations and coast stations shall be granted by the Governor, who shall determine the term and conditions of the licence, and that apparatus for wireless telegraphy not used for the purposes of such stations, as, for example, the ordinary receiving sets, shall be used in virtue of licences granted in accordance with regulations made under the Ordinance. The Governor in Council is empowered to make regulations with regard to the grant of such licences, and licences to deal in wireless telegraphy apparatus, the fees to be paid for licences and other matters.

Protectorate Courts.—In order to obviate the necessity of appointing for the Protectorate a number of junior administrative officers as magistrates with powers restricted to the issue of summonses, warrants and other process, Ordinance No. 7 (*a*) provides that all Administrative Officers of the Protectorate shall *ex officio* be Justices of the Peace in the areas for which they are appointed and empowers the Governor to appoint other persons to be Justices of the Peace, and (*b*) confers upon all Justices of the Peace the limited powers specified in s. 4, s. 41A (3).

The Ordinance does not give Justices of the Peace any jurisdiction to try or to hold preliminary investigations in criminal causes or to try civil causes.

S. 6 supplies certain inadvertent omissions in that part of the Third Schedule to the principal Ordinance which relates to the Petitions of Right Ordinance (c. 8).

Registration of Titles.—Ordinance No. 13 provides for the registration of titles to land in any area in the Colony or the Southern Provinces (excluding the Cameroons under British Mandate).

Supreme Court.—Ordinance No. 14 increases the jurisdiction of magistrates in the Colony to that of magistrates in the Protectorate.

Criminal Code.—Ordinance No. 15 provides that the punishment of whipping may be inflicted by a whip, the implement used to carry out a sentence of whipping imposed by a Moslem court, as well as by " a light

rod, or cane, or birch," the implements at present prescribed by s. 18 of the Criminal Code.

The Ordinance supplies a statement of the law relating to the criminal liability of intoxicated persons more accurately representing the law in England at the present time than that contained in s. 29 of the Criminal Code.

It also inserts in the Code a provision similar to that contained in s. 1 (1) of the English Infanticide Act, 1922 (12 & 13 Geo. 5, c. 18), which is to the effect that a woman who causes the death of her newly-born child at a time when she has not fully recovered from the effect of giving birth to the child and when by reason thereof the balance of her mind is disturbed is not to be deemed to be guilty of murder but may be convicted of a felony, namely infanticide, and may be punished as if she had been guilty of the offence of manslaughter of the child.

Criminal Procedure.—Ordinance No. 16 provides that where a pregnant woman is convicted of a capital offence the sentence to be passed on her is to be a sentence of imprisonment for life instead of a sentence of death. The Ordinance also provides that a woman charged with the murder of her newly-born child may, if acquitted of murder, be convicted of the offence of concealment of birth or of infanticide, and if charged with infanticide may, if acquitted of that offence, be convicted of concealment of birth, provided in each case that the evidence warrants such a conviction.

Cultivated Oil Palm.—Ordinance No. 17 provides for the remission of the whole or a part of the export duty payable on palm oil produced from plantations or plots of planted oil palms which have been properly cultivated.

Gold Trading.—Ordinance No. 18 provides for the regulation of traffic in raw gold so as to prevent the selling and buying of gold stolen from persons engaged in mining.

Goldsmiths.—With a view to discouraging goldsmiths from unlawfully obtaining possession of raw gold (as defined in the Gold Trading Ordinance) Ordinance No. 21 requires goldsmiths to obtain licences and to keep books and to produce such books and their stocks of gold for inspection.

Kola Tenancies.—Ordinance No. 25 enables any kola tenancy in the township of Onitsha, or in any other part of the Protectorate to which the Ordinance may be applied by Order in Council, to be brought to an end at the instance of the grantor.

Importation of Plants Regulation.—Ordinance No. 29 enables the Governor in Council to make regulations with regard to the importation of plants with a view to the prevention of the introduction and spread of pests and diseases affecting vegetation, and for purposes connected therewith.

Co-operative Societies.—The object of Ordinance No. 39 is to regularize the position of those producers' and marketing organizations which already exist in Nigeria and to facilitate the development of this movement and its extension to other fields of production.

Foreign Judgments (Reciprocal Enforcement).—The Reciprocal Enforcement of Judgments Ordinance (c. 10) makes provision for the reciprocal enforcement of judgments obtained in Nigeria and in parts of His Majesty's Dominions outside Nigeria. The object of Ordinance No. 48 is to make provision for the reciprocal enforcement of judgments obtained in Nigeria and in both foreign countries and such parts of His Majesty's Dominions. The Ordinance is based on the Foreign Judgments (Reciprocal Enforcement) Act, 1933 (23 Geo. 5, c. 13).

The Reciprocal Enforcement of Judgments Ordinance has been extended to a number of territories. It is considered preferable, therefore, not to repeal that Ordinance for the present, but to leave it in force until arrangements are made, after consulting the territories in question, to extend this new Ordinance by Order in Council to each of those territories.

4. SIERRA LEONE.

[*Contributed by* I. J. TURBETT, ESQ., *Attorney-General.*]

In 1935 twenty-four Ordinances were placed on the statute-book. Of these, sixteen either amended or repealed existing measures, two dealt with supply, and the remaining six dealt with matters not hitherto the subject of legislation.

Of the new measures, the following are worthy of mention :

Law Reform (Miscellaneous Provisions).—Ordinance No. 3 is a further measure of law reform and is based on a statute of similar title of the Imperial Legislature of 1934. It provides in general that all causes of action, subject to a few exceptions, subsisting against or vested in a dead person are to survive against or for the benefit of the estate. The exceptions include actions which may be considered as purely personal matters and where the presence of the party liable is of the utmost importance. Briefly, the measure abolishes to a considerable extent the ancient legal doctrine *actio personalis moritur cum persona* which, although eaten up by certain statutes and judicial opinions, was still regarded by reformers to be productive of much injustice. Certain amendments of importance have also been made to the Fatal Accidents Acts. It should be noted, however, that the list of competent beneficiaries under the Fatal Accidents Acts has only been extended to include illegitimate children and not adopted children. There is no enactment of the nature of the Adoption of Children Act, 1926, on the statute-book of the Colony, and, in fact, there is no necessity for such legislation for " adoption," as known in Europe and elsewhere, is unknown in this country. It further amends the existing law relating to the right to recover interest in civil proceedings, and now empowers the court to award interest on debts and damages for the whole or any part of the period between the date of the cause of action and that of the judgment, subject to certain exceptions.

Infanticide.—Ordinance No. 5 is based entirely on the Infanticide Act of 1922 and follows very closely the provisions of that statute except for necessary changes in point of detail and local procedure. It now brings the laws of Sierra Leone into further conformity with the law of England in regard to women who are convicted of offences punishable with death.

Processions.—Ordinance No. 9 was designed to regulate processions in the public streets and roads of the Colony. Previously the regulation of processions had to some extent been governed by Rules made under the Road Traffic Ordinance, 1924, but certain of these Rules were declared by the Supreme Court to be *ultra vires*. Legislation of this nature is not peculiar to any one Colony and may be found under some form or description in most Colonial statute-books, and it is unnecessary to observe that uncontrolled political and religious processions might lead occasionally to serious disturbances of the peace and other incidents which are not in the general interests of the community.

The present measure places the control of this traffic entirely in the

hands of the police. Persons organizing processions must obtain permits from the Commissioner of Police and must observe strictly any conditions endorsed thereon. The doing of certain acts by persons taking part in a procession are also prohibited unless permission has been obtained from the police. Provision has been made in the Ordinance for a considerable number of exempted processions, and the Governor in Council is empowered to exempt certain classes of persons from the operation of the Ordinance.

Foreign Judgments (Reciprocal Enforcement).—Ordinance No. 11 has been enacted in order to accede to the Conventions which His Majesty's Government in the United Kingdom hope to negotiate with certain foreign countries. The principal object of the measure is to secure, on a basis of reciprocity, the enforcement of judgments obtained in Sierra Leone in foreign countries. It applies also to British Dominions, Protectorates and Mandated territories and to judgments obtained in the courts of those territories, in the same manner as it applies to foreign countries and to judgments obtained in the courts of those countries.

Diamond Agreements and Licence (Ratification).—Ordinance No. 22 was enacted for the purpose of ratifying and confirming two agreements and a licence which had been negotiated by this Government with the Consolidated African Selection Trust and the Sierra Leone Selection Trust, with a view to the exploitation of the diamond fields of this country and the marketing and disposal of stones found therein. In other words, a monopoly in diamonds had been created by Government in favour of the latter Company and this measure was designed to validate the transaction.

Diamond Industry Profit Tax.—Ordinance No. 23 provides for the imposition of a profits tax on any person or corporation engaged in the production and sale of diamonds within Sierra Leone.

As regards amending and repealing measures, the following may be noted:

Medical Practitioners, Dentists and Druggists.—Ordinance No. 18 empowers the Governor in Council in his discretion to revoke or suspend the licence of a druggist, and direct the removal of his name from the register if he is convicted of certain offences or his conduct is found to be unsatisfactory in other respects by a Board of Inquiry.

Naval Volunteer Force.—Ordinance No. 20 provides for the creation of a Naval Volunteer Force in Sierra Leone and is based on similar laws in force in other Colonies. The previous enactment of 1934 relating to such a Force was never brought into operation and is now replaced by this measure which amends the existing measure in a few respects.

Appeals from Magistrates.—Ordinance No. 24 repeals and replaces the Appeals from Magistrates Ordinance, 1924, which was originally enacted in 1877 under a different title and amended on many subsequent occasions. In view of a decision of the Supreme Court that the right of the Crown to appeal, and hitherto unquestioned, did not exist, it was considered desirable to overhaul completely the existing machinery of the law relating to appeals from the summary jurisdiction in the Colony and to bring our legislation relating to such appeals into line with more modern enactments in force in other Colonies.

The chief alterations which are introduced by the new measure may be summarized as follows: It is made perfectly clear that the Crown can appeal in all cases on a matter of law, but not on a matter of fact. It is

provided that every appeal shall be made in the form of a petition in writing containing all the essential particulars of an appeal. Formerly an appeal was instituted by an oral or written notice to the trial magistrate and the grounds of appeal were given in the same way. The Registrar of the Appeal Court will be responsible for the procedure preliminary to an appeal in lieu of the trial magistrate. No appeal will be open to a person who has pleaded guilty except as to sentence. Supplementing the ordinary appeal by petition, provision is made for the first time in the Colony for appeals by way of case stated on points of law. Provision is also made for a further appeal on a question of law to the West African Court of Appeal.

Fifty-nine subordinate legislative measures were also passed during the year.

X. EAST AFRICA.

1. KENYA.

[*Contributed by* T. D. WALLACE, ESQ., *Crown Counsel.*]

Ordinances passed—47.

The following is a summary of the more important enactments of general interest during the year 1935 :

Expulsion from Proclaimed Areas.—Ordinance No. 11 re-enacts the provisions of the Expulsion from Proclaimed Areas Ordinance, 1933, which expired on May 18, 1935. The Ordinance makes provision for the expulsion from certain areas of the Colony of persons whose presence therein is deemed to be undesirable.

Penal Code.—Ordinance No. 24 makes certain amendments to the Penal Code, which experience has shown to be desirable. The Ordinance embodies in the Penal Code the provisions of the Infanticide Act, 1922 (England), and also the provisions of the Sentence of Death (Expectant Mothers) Act, 1931 (England). These provisions have been modified to suit local conditions.

Coir Fibre Industry.—Ordinance No. 25 prohibits the preparation of coir or the manufacture of coir products in a factory unless such factory is licensed. The Governor in Council may, in his discretion, refuse to issue a licence to any person on the ground that a sufficient number of licences has already been granted or on any ground which may appear to him to be sufficient. It is considered that the provisions of the Ordinance will enable a measure of protection to be given to persons who are prepared to devote their capital and enterprise to the preparation of coir and the production of coir products, and thus foster the development of the coco-nut industry in the Colony.

Legislative Council.—Ordinance No. 26 repeals and replaces the Legislative Council Ordinance (c. 24 of the Revised Edition) and all Rules made thereunder. The Ordinance provides for the nomination and election of members to the Legislative Council of the Colony and Protectorate of Kenya.

Marketing of Native Produce.—Ordinance No. 28 controls and regulates the marketing of native produce. The Ordinance is designed to advance and improve the cultivation of produce grown or produced by natives and to promote the organized marketing of such produce. The

Ordinance empowers the Governor to declare any district, or part of a district, to be a " declared area " within which the purchase and sale of native produce may be controlled and regulated. In such areas the purchase of specified classes of native produce may be restricted to holders of licences issued by the district commissioner. Subject to the approval of the Legislative Council, the Governor in Council may, where he is satisfied that the production of any particular kind of specified native produce in any declared area is susceptible of development or would be stimulated and advanced under technical direction and management or other special control, grant exclusive trading licences for the purchase of such particular kind of specified native produce. Licences and exclusive trading licences are to be issued subject to such conditions as may be necessary, including the power to determine and specify the minimum prices to be paid for specified native produce and to require that purchases of such produce must be paid for in cash.

Suppression of Noxious Weeds.—Ordinance No. 35 provides for the eradication of noxious weeds within the Colony. Power is given to the Governor in Council to declare any plant to be a noxious weed in any specified area, and, when this has been done, the Ordinance imposes certain obligations upon the person responsible for the area in respect of which such plant has been declared to be a noxious weed.

Girl Guides.—Ordinance No. 34 is designed to protect the Girl Guides Association (which is incorporated by Royal Charter) by prohibiting the formation of girl guides organizations otherwise than under the authority of the Girl Guides Association and by prohibiting the wearing by unauthorized persons of the uniform, badges, etc., prescribed for girl guides, and by controlling the sale of badges, etc.

Boy Scouts.—Ordinance No. 35 is designed to protect the Boy Scouts Association (which is incorporated by Royal Charter) by prohibiting the formation of boy scouts organizations other than under the authority of the Boy Scouts Association and by prohibiting the wearing by unauthorized persons of the uniform, badges, etc., prescribed for boy scouts, and by controlling the sale of badges, etc.

Excise Duties.—Ordinance No. 40 repeals and replaces the Excise Duties Ordinance, 1931, and all amendments thereof, and in addition provides for the stricter measures of control over the issue of licences and the operations of licences.

2. NYASALAND.

[*Contributed by the* HON. H. G. MORGAN, ESQ., *Attorney-General.*]

Ordinances passed—21.

Cotton.—Ordinance No. 1 creates a fund to be devoted, under the direction of the Governor, to the interests of cotton growing by natives on Crown lands.

Ordinance No. 12 permits, in the interests of the cotton industry, the issue of temporary licences to gin Crown land cotton for experimental purposes.

Tea.—Ordinance No. 3 prohibits the export of tea seed and the importation except under permit of tea seed or tea plant.

Ordinance No. 17 provides for the levy of a cess on all tea grown in and exported from the Protectorate. The proceeds of the cess will be used exclusively for the benefit of the tea industry.

Wild Birds Protection.—Ordinance No. 5 is designed more adequately to protect game birds, some of which are in danger of extermination.

Income-tax.—Ordinance No. 6 permits of the extension of the period of two years within which a tax-payer can claim rebates.

Penal Code.—Ordinance No. 8 fixes the terms of imprisonment that may be awarded in default of payment of fines.

Trans-Zambesi Railway Company, Limited (Notes Guarantee).—Ordinance No. 11 guarantees certain 12-year Notes (1933–45) issued by the railway company.

Statistics.—Ordinance No. 15 empowers certain officers to call for statistics relating to the matters specified in s. 3 of the Ordinance.

Native Hut and Poll Tax.—Ordinance No. 16 empowers the Governor to exempt from local taxation any native resident in the Protectorate who is domiciled elsewhere and who has paid his tax in his country of domicile, provided that the country of domicile makes similar provision for its natives who pay taxes in the Protectorate.

3. TANGANYIKA TERRITORY.

[*Contributed by* G. M. MAHON, ESQ., *Acting Crown Counsel.*]

Forty-one Ordinances were enacted in 1935, of which twenty-four were amending Ordinances effecting minor alterations as were deemed to be desirable. Of the Ordinances the more important were the following :

Foreign Judgments.—Ordinance No. 12 makes provision for the enforcement in Tanganyika Territory of judgments given in foreign countries which accord reciprocal treatment to judgments given in Tanganyika Territory, for facilitating the enforcement in foreign countries of judgments given in Tanganyika Territory and for other purposes connected with these matters.

Dangerous Drugs.—Ordinance No. 28 was passed to consolidate the law regulating the importation, exportation, production, manufacture, sale and use of opium and of certain other dangerous drugs and substances such as Indian hemp, cocaine, morphine, etc., and to make further and better provision for the control of the external trade in dangerous drugs.

Cinematograph.—Ordinance No. 37 regulates cinematograph theatres and the making and exhibiting of cinematograph pictures, and its provisions make it incumbent upon anyone desiring to direct, take part or assist in the making of a film for a cinematograph picture to obtain first of all a permit so to do from the Governor ; and no person may use any place as a cinematograph theatre without obtaining the appropriate licence therefor.

Extermination of Mosquitoes.—Under Ordinance No. 40 the Governor in Council is empowered to make rules known as prescribed measures for the extermination of mosquitoes to which every occupier or, in his absence, owner of a building or land is required to conform.

4. UGANDA PROTECTORATE.

[*Contributed by* T. C. DANDS, ESQ.]

During 1935, twenty-three Ordinances were enacted in Uganda. The more important enactments were :

Mining.—Ordinance No. 14 repeals the Mining Ordinance, 1930, and provides a better measure of control over mining in the Protectorate than

at present obtains; opportunity has also been taken to effect a general consolidation of the existing law and rearrange its various provisions in more logical sequence.

Public Health.—Ordinance No. 13 is a comprehensive enactment which deals with all matters bearing on public health. Similar legislation exists in the Dominions and other British Colonies and Protectorates. An important provision is the establishment of an Advisory Board of Health which advises the Governor on all matters affecting public health.

Companies.—Ordinance No. 12 was enacted to bring the law in the Protectorate into line with the English Companies Consolidation Act, 1929. It is also a step forward in the direction of the unification of commercial legislation in the three territories, Tanganyika and Kenya having already enacted similar legislation.

Revised Edition of the Laws.—Ordinance No. 11 gives legislative provision for the preparation and publication of a Revised Edition of the laws. The last revision was in 1923.

Inquests.—Ordinance No. 10 amplifies the law relating to the holding of inquests which prior to its enactment was inadequately dealt with in the Criminal Procedure Code. An important provision is for the stay of inquest proceedings pending the determination of criminal proceedings.

Game.—Ordinance No. 15 effects certain amendments to the principal Ordinance of 1926 and consolidates the numerous amendments to the first five Schedules to that Ordinance. Several of the changes were made to conform with the International Convention relating to the preservation of fauna and flora in Africa.

Penal Code.—Ordinance No. 17 gives effect to the recommendations of the Conference of Law Officers held in Nairobi in 1933. The amendments are the outcome of experience gained during the three years the principal Ordinance had been in force.

Criminal Procedure.—Ordinance No. 16 also gives effect to the recommendations of the Conference of East African Law Officers in 1933, the Bushe Commission, and the Governors' Conference, 1935.

5. ZANZIBAR.

[*Contributed by* J. H. VAUGHAN, ESQ., *Acting Attorney-General.*]

During the year twenty-two Decrees were passed, out of which fourteen were amending Decrees. The following are the more important Decrees enacted during the year:

Minimum Wage.—Decree No. 1 provides for the appointment of Boards for the fixation of minimum rates of wages if and when such fixation becomes necessary. It implements the requirements of the Convention of the International Labour Office Geneva, which has been in force since June 14, 1930, and which applies to this Protectorate.

Post Office.—Decree No. 7 applies the Post Office Decree of 1917, which was modelled on the Indian Post Office Act of 1908 as amended up to 1916. It is based upon the Tanganyika Post Office Ordinance of 1931, as recently amended. This Decree brings the Post Office legislation in the Protectorate up to date.

Marriage and Divorce (Mohammedan) Registration.—The object of Decree No. 8 is to place the registration of Mohammedan marriages and divorces upon a stricter footing than hitherto and to give the Kathis certain powers of supervision over those persons whose duty it is to effect

such registration. It repeals the existing Decree, which though excellent in principle has proved in practice to be in certain respects inadequate.

Alienation of Land (Restriction and Evidence).—This amending Decree, No. 10, was passed in order to extend still further the time during which no decree or order of a court for the sale of the land of an Arab or an African in respect of a mortgage entered into or a debt incurred prior to the coming into operation of the Decree can be executed.

Treaty of Peace (Covenant of the League of Nations) Order, 1935 (Application).—Decree No. 13 extends the provisions of the Treaty of Peace (Covenant of the League of Nations) Order, 1935, to persons who are not subject to the Zanzibar Order in Council, 1924, and thus makes those provisions of universal application. The Decree also provides for the application of any subsequent Orders which may be made by His Majesty in Council under the Treaty of Peace Act, 1919.

Currency.—Decree No. 21 introduces into the Protectorate the currency issued by the East African Currency Board in place of the existing currency issued by the Currency Board established under the provisions of the Currency Decree, c. 94 of the Revised Laws, now repealed and replaced by the present Decree.

Juvenile Offenders.—Decree No. 22 makes provision for the constitution of juvenile courts, the appointment of probation officers and places of detention and generally for regulating the practice and procedure in respect of children and young persons charged with or convicted of criminal offences.

6. ANGLO-EGYPTIAN SUDAN.

[*Contributed by the* HON. ADVOCATE-GENERAL.]

Ordinances passed—5.

Advocates.—Ordinance No. 3 provides for the better regulation of the profession of advocates.

League of Nations (Sanctions).—Ordinance No. 4 prohibits the export and import of certain goods to and from Italian territory and the provision of credit to Italy.

Preservation of Wild Animals.—Ordinance No. 5 repeals and re-enacts with amendments the Preservation of Wild Animals Ordinance, 1927, and the Ordinances amending the same.

XI. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by the* HON. HECTOR JOSEPHS, K.C., *Attorney-General.*]

There were thirty-eight public Ordinances passed during the year, of which the following are the more important:

Supreme Court of Judicature.—Ordinance No. 2 permits a judge, with the Governor's consent, to accept an office or place of profit or emolument not authorized by law, if the necessity arises.

Georgetown Town Council.—Ordinance No. 3 provides that the non-payment of town taxes or any rate levied under the Georgetown Sewerage and Water Ordinance, or any instalment thereof for more than six months after the same shall have become due, shall be a disqualification for

election to the Council, or in the case of a councillor, for sitting or voting in the Council. It also specifies the dates on which instalments of tax are to be paid and the time at which it shall be the duty of the Town Clerk to enforce the payment of taxes.

Georgetown Sewerage and Water.—Ordinance No. 4 fixes ascertainable dates for the payment in two instalments each year of the rate levied under s. 22 of the Georgetown Sewerage and Water Ordinance, c. 96. Provision is also made for the payment to and recovery of rates by the Town Clerk in the same way as taxes under the Georgetown Town Council Ordinance.

Civil List.—Ordinance No. 7 validates appointments of officers at salaries lower than those specified in the schedule to the Civil List Ordinance and gives authority to make future appointments at lower rates of salary.

Income-tax.—Ordinance No. 9 amends the law relating to income-tax with respect to shipping profits and the admission of claim for relief in cases of double taxation. This Ordinance gives effect to the policy of reciprocal exemption of shipping profits to be adopted by Colonial Governments. It also limits the time within which claims for relief from double taxation may be preferred and admitted.

Georgetown Accumulated Taxes and Rates (Funding).—Ordinance No. 10 empowers the Georgetown Town Council to fund the total amount outstanding in respect of unpaid taxes and rates which have been levied during the years 1933 and 1934 under the Georgetown Town Council Ordinance (c. 86) and the Georgetown Sewerage and Water Ordinance (c. 96) and the Georgetown Sewerage and Water Ordinance, 1930, and in respect of unpaid ratepayers' debts under the Georgetown Improvement Rates (Funding) Ordinance, 1932, together with interest thereon: it also makes provision for the payment of such taxes, rates and ratepayers' debts and interest.

Shops Regulation.—Ordinance No. 14 enables the Governor in Council by order to forbid in any described area (exclusive of Georgetown or New Amsterdam) the sale of malt liquor or wine on any day appointed for an election of a member of the Legislative Council, during such polling hours as he may fix. It also prohibits, on any day appointed for the election of a member of the Legislative Council, the opening before the close of the poll of hotels, retail spirit shops, and taverns in the electoral district, and in Georgetown where the district is wholly or partly in Georgetown.

Local Government (Village Councils).—Ordinance No. 16 amends the Local Government Ordinance, c. 84, making better provision for the constitution of village councils and the election of members. Ordinance No. 27 provides for the election of a chairman of a council on the occurrence of a casual vacancy, and also for his resignation of office. These Ordinances are on the lines of recent legislation in connexion with local authorities.

Rice (Export Trade).—Ordinance No. 17 makes better provision for the establishment of a Board to regulate and control the exportation of rice produced in the Colony. This Ordinance re-enacts, with amendments, the Rice (Export Trade) Ordinance, 1932 (No. 47), as amended by the Rice (Export Trade) Ordinance, 1933 (No. 21), which were temporary measures.

Transport and Harbours.—Ordinance No. 19 gives specific authority to the Board to appropriate the revenues of the Department in accordance

with the authorized estimates and validates past appropriations by the Board.

Pensions (Re-employed Pensioners).—Ordinance No. 20 repeals the provision in the Pensions Ordinance, c. 204, relating to the abatement of pensions of re-employed pensioners. This Ordinance enables the Government to fix the salary of a re-employed pensioner, with regard to the nature of the office undertaken by him.

Stamp Duties (Management).—Ordinance No. 21 provides for the discontinuance of the use of old dies and stamps.

Customs Duties.—Ordinance No. 23 consolidates the existing law relating to the imposition and collection of customs duties.

Expiring Laws Continuance.—Ordinance No. 24 provides for the continuance in force of: (*a*) The Sugar (Temporary) Excise Duty Ordinance, 1932 (No. 2); (*b*) The Bill of Entry Tax Ordinance, 1932 (No. 8).

East Demerara Water Conservancy.—Ordinance No. 26 makes better provision for the supply of water in East Demerara. It amalgamates the management and regulation of the East Demerara Water Conservancy with that of the Lamaha Canal and the Shanks' Canal, increases the water supply both for the East Demerara sugar and other estates and villages, and also the City of Georgetown; and provides for the construction of a containing dam on the Demerara River or western side of the conservancy area and extending the same as far as the Sand Hills.

Pensions (Voluntary Retirement).—Ordinance No. 30 repeals the Pensions (Voluntary Retirement) Ordinance, 1932, which was an emergency measure to permit officers in the Public Service to retire on pension or gratuity before the fulfilment of the normal requirements of the Pensions Ordinance, c. 204, where the retirement would effect economy of a permanent character in the Service.

Pensions.—Ordinance No. 32 makes provision for the cessation of special injury awards to, and of special awards to dependents of workmen in cases where there is a right to compensation under the Workmen's Compensation Ordinance, 1934.

Workmen's Compensation.—Ordinance No. 33 specifies the condition of payment of compensation where an injury is aggravated or death results because of unreasonable refusal to submit to or disregard of medical treatment; allocates the payment of compensation to dependents in part dependent upon the earnings of a workman where his death has resulted from the injury; and avoids double liability by Government to its officers —that is, both under the Pensions Ordinance, 1933, and under the Workmen's Compensation Ordinance, 1934.

Coco-nut Products (Control).—Ordinance No. 36 repeals and re-enacts, with additions and variations, the Copra Products (Sale and Manufacture) Ordinance, 1933, and the Copra Products (Sale and Manufacture) Ordinance, 1934. It regulates the sale and manufacture of coco-nut products, thereby ensuring a good price for copra.

Plant Diseases and Pests.—Ordinance No. 37 repeals the Plant Diseases and Pests (Prevention) Ordinance, c. 164. With the repeal of the Board of Agriculture Ordinance, c. 150, it became necessary to provide for the exercise of the powers and functions of the Board (established by that Ordinance) under the Plant Diseases and Pests (Prevention) Ordinance, c. 164. The new Ordinance was accordingly enacted and at the same time opportunity was taken to bring the legislation in line with that in the neighbouring colonies. It provides for the importation and

exportation of plants and for the prevention and eradication of diseases and pests affecting plants.

Importation of Bees.—Ordinance No. 38 empowers the Governor in Council by regulations to control the importation of bees and beekeepers' stock and to provide for (*a*) a penalty for the contravention of the regulations, and (*b*) the seizure and destruction of bees and beekeepers' stock imported in contravention of the regulations.

Compensation for Accidents.—Compensation for accidents is legislated for by the Workmen's Compensation Ordinances, 1934 and 1935, and the Accidental Deaths and Workmen's Injuries (Compensation) Ordinance, c. 265. Part I of c. 265 is an adaptation of the Fatal Accidents Act, 1846 (9 & 10 Vict. c. 93), as supplemented by the Fatal Accidents Act, 1864 (27 & 28 Vict. c. 95), and Part II an adaptation of the Employers Liability Act, 1880 (43 & 44 Vict. c. 42), with the necessary modifications to suit local requirements.

By the Factories (Dangerous Trades Regulation) Ordinance, c. 268, the erection of any factory or building in a town or within a quarter of a mile of the limits of a town for the manufacture of any explosive or inflammable substance or thing is prohibited, and the manufacture of explosives, etc., in a factory or building situated in a town is similarly prohibited.

The aged and poor may receive relief under s. 26 of the Poor Relief Ordinance, c. 90, otherwise there is no legislative provision in the Colony in regard to sickness or old age.

XII. WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, C.B.E., K.C., *Speaker of the House of Assembly.*]

Acts passed—13.

Carriage Licences.—C. 1 repeals and re-enacts the Horse and Carriage Licences Act with the exception that owners are no longer required to pay a licence fee in respect of their horses. The present Act applies solely to carriages kept for private use.

Customs.—The Protection of Revenue (Customs) Act, c. 4, protects the revenue of the Colony derived from duties of customs on imports and exports against forestalling by providing that those duties shall be collectable from the date of the adoption by the House of Assembly of a resolution imposing such duties. The Act also applies in cases of reduction or removal of duties of customs by providing for refund of excess payments. This Act is based on the Imperial Act of 1913.

The Tariff Amendment Act, c. 10, provides for the prohibition of certain goods from being imported into the Colony and the restriction of other goods which might be imported under certain conditions.

Financial Year.—C. 15 provides that every financial year shall end on December 31 instead of on March 31 as heretofore.

Interpretation.—C. 6 makes minor amendments to the Interpretation Act, defining "Commissioner" and "Financial Year" and amends the definition of "The British Empire" to exclude Palestine and Trans-Jordan from preferential treatment under the Tariff Act, 1931, and allied Acts.

Capital Punishment.—C. 7 provides for the sentence of penal servitude for life, instead of the sentence of death, to be passed on a woman convicted of an offence punishable with death when she is found to be pregnant.

Commissions of Inquiry.—C. 8 provides for the giving of evidence under oath by persons who are the subject of the inquiry or who may in any way be concerned in the matter under inquiry. Any such persons may be represented by counsel.

Telegraphs.—C. 9 provides for the licensing of radio receiving sets.

Sisal.—The Sisal Export Tax Act, c. 13, provides for the control of the sisal industry by licensing of buyers and the inspection of the fibre by an officially appointed inspector. An export tax of one halfpenny per pound weight of sisal is the amount of duty of customs payable in certain circumstances.

2. BARBADOS.

[*Contributed by* WILFRED K. FERGUSSON, ESQ.]

Pension.—Act No. 6 alters the age of compulsory retirement for Anglican Clergy from 65 to 70.

Police.—Act No. 10 provides for an increase in the establishment of the Police Force.

Statute Laws (New Edition).—Act No. 22 provides for the printing of a new edition of all the Acts of this Island.

Commercial Travellers and Transient Traders.—Act No. 31 provides for the licensing in certain cases of traders who are not domiciled in Barbados.

Cinematograph (British Films).—Act No. 34 requires the exhibition of a certain proportion of British films.

Cotton Levy Export.—Act No. 35 imposes a levy on all cotton exported from the Island for the purpose of furthering the interests of the Sea Island cotton industry.

Public Employees Leave.—Act No. 49 puts on a proper footing the grant of leave to whole-time employees of Government who are not members of the Civil Service.

General Loan and Inscribed Stock.—Act No. 52 declares the terms and conditions applicable to loans authorized to be raised by the Government, and provides for the creation of Inscribed Stock.

3. JAMAICA.

[*Contributed by* J. E. R. STEPHENS, ESQ., *formerly a Resident Magistrate of Jamaica and subsequently Senior Puisne Judge of H.M. Supreme Court of Kenya Colony, and a Member of the Court of Appeal for Eastern Africa.*]

During the year 1935 the Jamaican Legislature passed two enactments regarding the sentences to be passed in certain circumstances upon women who had taken human life.

Infanticide.—Law 3 enacts that where a woman by any wilful act or omission causes the death of her newly-born child, but at the time of the act or omission she had not fully recovered from the effect of giving birth to such child, and by reason thereof the balance of her mind was then disturbed, she shall, notwithstanding that the circumstances were such that but for this law the offence would have amounted to murder be guilty

of infanticide, and may for such offence be punished as if she had been guilty of the offence of manslaughter of such child. But nothing in this law shall affect the power of the jury upon an indictment for the murder of a newly-born child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of s. 51 of 27 Vict., c. 32.

Sentence of Death (Expectant Mothers).—Law 4 provides that where a woman convicted of an offence punishable with death is found in accordance with the provisions of this law to be pregnant, the sentence to be passed on her shall be a sentence of penal servitude for life instead of sentence of death. Where a woman convicted of an offence punishable with death alleges that she is pregnant, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by a jury, on such evidence as may be laid before them either on the part of the woman or on the part of the Crown, and the jury shall find that the woman is not pregnant unless it is proved affirmatively to their satisfaction that she is pregnant. The woman has, under the Court of Appeal Law, 1932, a right of appeal to the Court of Appeal.

Passports.—Law 5 prohibits the landing in the Island of Jamaica of persons without the production of passports or other satisfactory evidence of identity, and regulates the granting of passports in the Island. This law repeals the Passports Law of 1925.

Adulteration.—Law 9 amends further the Adulteration Law of 1908 and gives power to the Governor in Privy Council to make regulations: (*a*) for determining what deficiency in any normal constituents of any article of food or drink shall for the purpose of this law raise a presumption until the contrary be proved, that the article is not genuine; (*b*) prohibiting such additions to the normal constituents of any article of food or drink as may be specified by such regulations and prescribing what proportion of any stated preservative or colouring matter or other ingredient or material may be permitted in various articles of food or drink; (*c*) prescribing the sizes and contents of containers of various articles of food or drink and the labels to be affixed thereon; (*d*) prescribing the quantity and standard of quality and purity of the contents of containers of various articles of food and drink.

Public Health.—Law 10 amends the Public Health Law, 1925, and provides that any milk which analysed by an official analyst shows a content of less than 3·4 per cent. of milk fat or less than 8·25 per cent. of milk solids other than milk fat shall be presumed until the contrary is proved to be impoverished milk. The production of a certificate signed by an official analyst stating the result of his analysis shall be sufficient evidence of all the facts therein stated, unless the defendant require that the Official Analyst be summoned as a witness, in which case the magistrate shall cause him to be summoned on a day and at a time to be specified. Every Health Officer shall have power to enter any school in the Island and to examine any or all of the children attending such school for the purpose of ascertaining if any child is not in a fit state of health to continue attendance at school, and if so found to give directions for the removal from school of such child and to serve on the head teacher in charge of such school a copy of such notice.

Shop Assistants.—Law 13 makes provisions for the lot of the shop assistants. It provides for the length of hours during which assistants may be employed. Proper sitting accommodation behind counters for

all assistants when not actually engaged in selling must be provided in the proportion of not less than two seats for every three assistants. No person under the age of fifteen shall be employed in or about any shop for a longer period than forty-two hours (including mealtime) in any week.

Cinematograph.—Law 17 amends the Cinematograph Law, 1913. It provides that it shall not be lawful (*a*) to exhibit, display, publish or distribute any poster; (*b*) to print or publish any advertisement advertising the nature of any film or cinematograph exhibition unless such poster or advertisement has been approved. Such approval shall not be given in the case of a poster or advertisement which, in the opinion of the authority, depicts or advertises any matter that is against public order and decency, or the exhibition of which, or the advertisement, for any other reason is, in the opinion of the authority, undesirable in the public interest.

Banana Industry.—Law 24 affords assistance to the Banana Industry of the Island and enables loans to be made in aid thereof when damaged by hurricane.

Police.—Law 27 consolidates and amends the laws relating to the Jamaica Constabulary Force.

There are a few other enactments, but they do not appear to be of sufficient importance to make any comment upon.

4. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by the* Hon. Charles Claye Ross, M.A., *Attorney-General.*]

During the year 1935 forty Ordinances were enacted, of which the most important were the following:

Agricultural Loan.—Ordinance No. 3 was passed to authorize a loan of £25,000 to enable assistance to be granted to small agriculturists for the establishment of cultivations in the Colony.

Infanticide.—Ordinance No. 13 relates to cases where a mother is charged with homicide of her newly-born child at a time when in consequence of child-birth the balance of her mind is disturbed.

Nutmeg Regulation.—Ordinance No. 16 regulates the curing, packing and exporting of nutmegs. S. 5 allows for the appointment of inspectors whose duty it is to enforce and carry out the provisions of the Ordinance. S. 6 sets out the powers of the inspectors and gives them the right to examine and take samples. S. 13 provides for the appointment of a Board of Appeal in cases of persons aggrieved by any action taken by an inspector.

Currency Notes.—Ordinance No. 22 makes provision for the issuance of Trinidad government currency notes as legal tender in Grenada.

Town Planning.—Ordinance No. 25 makes provision for the planning, improvement and development of any land likely to be used for building purposes with the general object of securing proper sanitary conditions, amenity and convenience in connexion with the laying out and use of the land and of any neighbouring lands. The Ordinance gives the local authority power to prepare or adopt by resolution a town-planning scheme.

Banana Cess.—Ordinance No. 28 imposes a cess on bananas exported from the Colony.

Prison Officers Pension.—Ordinance No. 30 regulates the grant of

pensions and other allowances to prison officers. S. 3 makes the grant of pensions and other allowances a charge on the general revenue of the Colony. S. 5 provides for the cases in which pensions may be granted and s. 6 makes provision for payment of gratuities to prison officers who have not completed 10 years' service.

Savings Bank.—Ordinance No. 40 amends and consolidates the law relating to the government savings bank and provides for payment of interest on deposits.

(ii) Saint Lucia.

[*Contributed by* J. E. M. Salmon, Esq., *Attorney-General.*]

Ordinances passed—17.

Animals.—No. 3, Animal Disease, replaces No. 17 of the 1916 Revision but continues in force Rules and Orders made under it until rescinded or amended by the Governor in Council under No. 3.

Criminal Law.—No. 4 replaces the provisions of the Criminal Code, 1920, providing for the defence of intoxication to a criminal charge.

Currency.—No. 6, Colonial Currency Note (Winding Up), provides for the redemption and destruction of such notes issued in the Colony.

Foreign Judgments.—No. 12, British, Colonial and Foreign Judgments (Reciprocal Enforcement), provides for the enforcement in the Colony of judgments from abroad.

Labour.—Labour (Minimum Wage), No. 5, empowers the Governor in Council to fix by Order the minimum rate of wage to be paid for any occupation in the Colony, and where considered desirable to appoint advisory boards to consider the wages paid for any such occupation.

Legislature.—The Legislative Council (Elected Members) Amendment, No. 10, provides for the preparation of a new register of voters at any time under the authority of an Order made by the Governor in Council for the purpose. No. 16 provides for the use of the old register if an election becomes necessary before the preparation of the new register.[1]

Public Officers.—No. 15, Police Pensions Amendment and No. 14, Prison Officers Pensions Amendment provide, respectively, for the pension of officers appointed after September 1, 1935.

Revenue.—No. 11, Banana Cess, provides for an export duty on bananas exported from the Colony under its provisions.

Customs Duties Amendment, No. 1, fixes the import duty payable on apparel and boots, shoes and slippers, and No. 7 the duty on oil for motors, etc.

Income-tax Amendment, No. 7, provides for the relief of non-resident shipping business, and fixes a time limit for double taxation relief.

Town of Castries.—No. 13 amends the Castries Town Board Ordinance by making provision for appeals from assessments by the Board for rates and taxes, for the registration of women voters and for the election of women members of the Board.

(iii) St. Vincent.

[*Contributed by the* Hon. H. A. O'Reilly, *Attorney-General.*]

The following are the most important of the fifty-two Ordinances which passed into law in 1935:

[1] Both these Ordinances have been repealed by an Order of the Governor in Council—No. 70 of 1936.

Importation of Textiles (Quotas).—Ordinance No. 1 amends the principal Ordinance (1934) by requiring licences in respect of the importation of regulated textiles.

Criminal Procedure.—Ordinance No. 4 declares the conditions under which intoxication will absolve or not persons charged with criminal offences.

Customs Duties.—Ordinance No. 5 increases the import duty on unrefined sugar as an auxiliary measure to the Unrefined Sugar (Local Consumption) Ordinance.

Unrefined Sugar (Local Consumption).—Ordinance No. 6 regulates the sale or disposal of unrefined sugar and makes certain provisions for the proper record of the manufacture thereof.

Sentence of Death (Expectant Mothers).—Ordinance No 9 prohibits the passing of the sentence of death on expectant mothers.

Infanticide.—Ordinance No. 10 provides that a woman who wilfully causes the death of her newly-born child may, under certain circumstances, be convicted of infanticide.

Plant Protection.—Ordinance No. 14 repeals and replaces the Importation of Plants Diseases Prevention Ordinance.

Registry.—Ordinance No. 19 requires the registration of documents, required to be registered under the principal Ordinance, to be effected within stated periods.

Employment of Women, Young Persons and Children.—Ordinance No. 20 makes provision for the carrying out of certain conventions adopted by the International Labour Organisation of the League of Nations at Washington on November 28, 1919.

Newspapers Control.—Ordinance No. 22 makes provision for the registration and control of newspapers.

Pedlars.—Ordinance No. 35 provides for the regulating of the trade of pedlars.

Education.—Ordinance No. 36 alters the functions of the Board of Education from advisory and executive to primarily consultative.

Cotton Seed Control.—Ordinance No. 37 makes provision for the control of cotton seed intended for planting.

Licences.—The licence fees payable on motor vehicles are increased by Ordinance No. 42.

Customs Duties.—Customs duties are provided for in the principal Ordinance (c. 184), and all amendments thereto from 1926–35 are revised.

Jury.—Ordinance No. 46 provides for the inclusion of women of thirty years of age on juries.

Seditious Publications.—Ordinance No. 47 makes provision for the punishment of seditious acts and seditious libel and the suppression of seditious publications.

5. TRINIDAD AND TOBAGO.

[*Contributed by* E. Le. Gendre, Esq., *Chief Clerk.*]

The more important Ordinances passed during the year 1935 were as follows:

Newspapers.—Ordinance No. 4 repeals and re-enacts the provisions of c. 179, with several amendments, *inter alia*, the definition of "newspaper" is modified.

Libel and Defamation.—Ordinance No. 5 extends the privilege already

given to Parliamentary reports, and to reports of judicial proceedings, vestry meetings, etc., published in a newspaper. It also provides for the leave of the Attorney-General before criminal proceedings are brought against the press.

Minimum Wage.—Ordinance No. 6 empowers the Governor to fix by proclamation minimum rates of wage, and to appoint advisory Boards to consider rates of wages.

Friendly Societies.—Ordinances Nos. 10 and 30 provide specially for the control of financial officers and the safeguarding of the societies' funds, and the winding up of defunct societies.

Port-of-Spain Corporation.—Ordinance No. 13 provides, *inter alia*, for the admission of women as members of the City Council, and gives the Council powers under the Land Acquisition Ordinance.

Central Waterworks.—Ordinances Nos. 15 and 27 provide for the establishment of a Central Water Board and the supply of water to various districts of the Colony and the taking over of the rights, powers, duties and obligations of maintenance, rating and other authorities constituted by cc. 114, 115 and 284, except in so far as they apply to the Boroughs of San Fernando and Arima. The rights of the Port-of-Spain Municipality are also preserved.

Slum Clearance.—Ordinance No. 17 empowers the Port-of-Spain City Council, with the approval of the Governor, to declare an unhealthy area to be a Slum Clearance area and provides for the repair or demolition of insanitary dwelling houses and barracks within the limits of the city and the reconstruction of such areas ; and the housing of persons of the working classes. Notice stating terms of resolution of approved areas must be published in the local newspapers.

Housing Commission.—Ordinance No. 18 supplements the Slum Clearance Ordinance and incorporates the Housing Commission, which will be composed of a chairman and six other members (three of whom shall be nominees of the Port-of-Spain Corporation) to be appointed by the Governor, and empowers the funds of the Commission to be raised by government loans or advances and the proceeds of any re-sale of properties which come into their possession. The Commission is also empowered to acquire from the local authority the whole or any part of a reconstructed slum clearance area or any areas of land for purposes of additional improvements ; to let or lease any of their properties ; with the consent of the Governor, to sell any of their properties ; to invest any surplus funds at their disposal ; and to advance moneys for the purpose of assisting in the erection of hostels for single men and women.

Private Schools.—Ordinance No. 23 secures the effective supervision of private schools in order to assist the enforcement of compulsory education.

Beekeeping and Bee Products.—Ordinance No. 28 gives the Governor in Executive Council the power to make regulations for the control of beekeeping and the importation of bees and bee supplies and the export of bee products. An Inspector of Apiaries is to be appointed to enforce the law.

Muslim Marriage and Divorce Registration.—Ordinance No. 29 provides for the registration of Muslim marriages and divorces which have been effected in accordance with the Islamic law relating to marriage and divorce.

Jury.—Ordinance No. 32 repeals and replaces several former pro-

visions and introduces certain new provisions for the more effective working of the jury system.

Post Office Savings Bank.—Ordinance No. 35 repeals and consolidates the provisions of the former Ordinance. New regulations have been made in substitution for those which existed under the repealed Ordinance.

Cocoa.—The Cocoa Subsidy (Special Taxation) Ordinance, No. 36, authorizes the imposition of special taxation for the purpose of raising revenue to be applied towards a subsidy for the relief of the cocoa industry.

The Trade Licensing Ordinance, No. 37, makes it compulsory for certain businesses, companies, agents, traders, etc., to be licensed and the revenue thereby raised is to be applied towards a subsidy for the relief of the cocoa industry.

The Cocoa Subsidy Loan Ordinance, No. 38, authorizes the Governor to raise a loan of $2,500,000 under the provisions of the General Local Loan Ordinance, and the General Loan and Inscribed Stock Ordinance to be appropriated and applied to the purpose of the payment of a subsidy for the relief of the cocoa industry.

Electricity Board.—Ordinance No. 39 establishes a Board consisting of a chairman and six other members to be appointed by the Governor, for the purpose of taking over and carrying on the electric lighting and tramway works now being operated by the Trinidad Electric Company, Limited, established under c. 310.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* C. Mansel Reece, Esq., *Attorney-General.*]

Ordinances passed—13.

Interpretation and General Clauses.—Ordinance No. 1 effects a number of minor amendments which were urgently needed, and the Interpretation and General Clauses Ordinance of 1932 and the 1935 Ordinance, which are now consolidated under the Consolidation of Laws Ordinance, 1934, form a very complete enactment embodying the latest interpretations adopted in various colonies.

Quarantine.—Ordinance No. 7 was an extremely necessary piece of legislation to control the introduction and spread of infectious diseases in the Colony, and adequate provisions are made therein for the visiting of vessels and the placing of them in quarantine when necessary.

Statute Law Revision.—Ordinance No. 8 was passed to incorporate into the Ordinances various amendments which were necessary before the revision of the laws, authorized by the Consolidation of Laws Ordinance, 1934, could be properly completed.

Savings Bank.—Ordinance No. 11 is based on a model prepared by a Committee which sat in London and which has recently reviewed the savings bank system in all colonies. The Ordinance, amongst other things, clearly enunciates the principle of government liability and regulates in definite terms the disposal of money in the banks.

There is nothing of striking importance in the remainder of the legislation passed during 1935.

2. CYPRUS.

[*Contributed by the* HON. L. LLOYD-BLOOD, M.C., *Attorney-General.*]

During the year 1935 forty-one laws were enacted, of which the most important were the following:

Wills and Succession.—Law No. 2 gives, with a slight qualification, any person who was born or whose father was born in the United Kingdom or any of the self-governing Dominions complete freedom to dispose of the whole of his property by will.

Hotels.—Law No. 12 gives more control over hotels in the Colony with a view to improving them and making them more attractive to tourists.

Shepherds.—Law No. 20 was enacted with the object of checking the depredations caused to rural property by shepherds.

Secondary Education.—Law No. 25 enables the Government to direct educational policy in all its aspects and to exercise supervision over all educational institutions in the Colony.

Prevention of Crime.—Law No. 30 makes better provision for the control of persons of lawless character.

Infants and Prodigals.—Law No. 32 makes provision for the guardianship of infants other than those coming within the scope of the Infants' Estates Administration Law, 1894, and in particular provides for cases in which a minor acquires property by way of gift. It provides also for the appointment of a guardian of a prodigal.

English School.—Law No. 35 places the English School on a more permanent foundation for the benefit of the youth of the Colony, and vests the movable and immovable property and the management and control thereof in the Governor.

Courts of Justice.—Law No. 38 reorganizes the judicial system of the Colony.

Juvenile Offenders.—Law No. 39 makes provision for the trial of juvenile offenders by a juvenile court having jurisdiction to deal summarily with all offences, except homicide, committed by them. It provides that children under the age of 14 shall not be sent to prison. They may be sent to a reformatory for a period not less than six months.

Antiquities.—Law No. 41 repeals the Antiquities Law, 1905. It creates a central Antiquities Advisory Board and District Antiquities Committees for each District. It empowers the Director of Antiquities to acquire any antiquity discovered on payment to the finder of the fair market price. Exportation of antiquities is permitted under a licence from the Director of Antiquities.

3. MALTA.

[*Contributed by* C. JOHN COLOMBOS, ESQ., LL.D.]

Ordinances passed—46.

Criminal Law.—Ordinance No. 13 establishes a novel principle by providing that intoxication, whilst not constituting on general principles a defence to a criminal charge, may nevertheless be a good defence if by reason thereof the person charged did not know at the time that his act or omission was wrong, or did not know what he was doing, and (*a*) the state of intoxication was caused without his consent by the malicious or negli-

gent act of another person, or (*b*) he was, by reason of intoxication, insane, temporarily or otherwise, at the time of such act or omission. For the purposes of these provisions, intoxication is interpreted as including a state or condition produced by narcotics or drugs.

Repression of False Reports.—Consequent upon the international crisis caused by the Italo-Abyssinian conflict, stringent legislation was put into force to preserve public peace and order. Ordinance No. 31 makes a person liable to imprisonment or fine if he should spread by "word of mouth" any false report or statement likely to disturb public tranquillity or good order. Ordinance No. 32, on the other hand, introduces an important amendment to the Press Laws by enacting that the Governor is empowered to suspend the publication of any newspaper for such period as he may think fit if any matter appearing therein is likely to endanger public order. This Ordinance further provides that any copy of a newspaper which has been suspended may be seized by a police, customs or post-office officer.

Æsthetic Buildings.—Ordinance No. 35 enacts that whenever it appears to the Governor, on the advice of a special board, that an advertisement displayed on any buildings or any hoarding set up seriously injures the amenity of the surrounding area, the owner thereof may be served with a notice requiring him to remove such advertisements or hoardings within a stated period. In case of his non-compliance, the Commissioner of Police is entitled to do so and recover, at the same time, from the owner the expenses of such removal as a civil debt.

Land Acquisition.—An important Ordinance (No. 40) was enacted in 1935 under the term "Land Acquisition (Public Purposes)," which confers the right upon the Governor to order the temporary evacuation of any building or area, or to declare by proclamation that any land is subject to clearance rights. Public purpose is defined in the Ordinance as meaning "any purpose connected with exclusive Government use or general public use or any purpose connected with the defence of these Islands or connected with, or ancillary to, naval, military or air operations." As regards the amount of compensation payable to the owner of such properties, the Ordinance provides that if the offer made by the competent authority is disputed, the matter shall be *finally* decided by the "Land Arbitration Board" consisting of (*a*) one of His Majesty's judges, as Chairman, (*b*) one person to be nominated by the Governor and (*c*) one person to be nominated by the owner.

XIV. MIDDLE EAST.

PALESTINE.

[*Contributed by* RALPH WINDHAM, ESQ., *Legal Draftsman.*]

Of the forty-eight Ordinances which were enacted in Palestine in 1935, the following were the more important:

Advocates.—No. 28 amends No. 13 of 1922, which regulates the admission of persons to practise as advocates in Palestine and the exercise of the profession of advocacy, by altering the definition of the profession so as to include the preparation of documents to be submitted to the Land Registry. Licensed petition writers practising as such at the date of the amending Ordinance, however, though not licensed as

advocates, are permitted to continue to be engaged in the completion of printed forms for filing in the Land Registry.

Agricultural Loans.—No. 27 empowers the High Commissioner to approve any company for the purpose of making short-term loans to cultivators on the security of crops or other agricultural produce, and enables such a company to register the charge, whereupon any person dealing with the property will be affected with notice of the charge. S. 7 makes it an offence to dispose of or deal with any property subject to a charge so registered, without the consent of the company in whose favour it is charged. The Ordinance constitutes an important step in the facilitation of agricultural development in Palestine.

Business Names.—No. 23 provides facilities for the registration of business names by persons or firms who are carrying on business under a name other than that of the person or persons who own or control the business. Although the Ordinance provides no sanction against the improper use of a business name, the system of registration which it introduces assists a person who is registering a business name to protect his interest in it by way of injunction.

Collective Punishment.—No. 39 amends No. 22 of 1926 with the object of diminishing agrarian crime by providing that a fine may be imposed on the assessable inhabitants of any area to which the principal Ordinance applies, in respect of an offence committed or damage done outside their area.

Companies.—No. 10 amends No. 18 of 1929 so as to allow companies registered in Palestine to keep branch registers of their members in the United Kingdom. This is a reciprocal provision, an Order of His Majesty in Council dated December 20th, 1934, having been made to enable a company registered under the Companies Act, 1929, to keep a branch register in Palestine. The Ordinance further provides that the High Commissioner may extend its provisions to other countries if satisfied that their laws give similar reciprocity.

Customs.—No. 20 amends No. 11 of 1929 by the insertion of a new section providing for the grant of drawback of duties payable under the Customs Tariff Ordinance (No. 40 of 1927) in respect of goods which after importation into Palestine undergo a process by which their identity is lost.

Landlord and Tenant.—No. 12 extends for a further year the provisions of No. 11 of 1934, which regulate the relationship of landlords and tenants of dwelling-houses within municipal areas and provide restrictions on ejectment and maximum rents, and it introduces similar provisions in respect of premises other than dwelling-houses. A municipality is enabled to adopt the provisions with respect to dwelling-houses without adopting those with respect to other premises, or *vice versa*, or to adopt both.

Liquor.—No. 4 amends the law regulating the sale of intoxicating liquor, in consequence of official investigation into the liquor traffic in Palestine, and replaces No. 14 of 1922. Under the new legislation the licensing board (presided over by a District Commissioner) may refuse licences, or may attach to their grant conditions as to the kind of liquor to be sold, the class of persons to whom it may be sold, the restriction of hours of sale and the employment of females on the licensed premises. The employment on the premises of females under 17 years of age is prohibited. The regulation of hours of sale has been transferred from

the police to the licensing board, and the power of issuing special temporary permits for the sale of liquor has been transferred to the District Commissioner. Finally, the penalties for infringements of the Ordinance or of the conditions attached to a licence have been considerably increased.

Medical Practitioners.—No. 44 amends No. 4 of 1928 with a view to dealing with the overcrowding of the medical profession in Palestine. It provides that in the case of persons who at any time after the date of the amending Ordinance acquire Palestinian citizenship or receive permission to remain permanently in Palestine, only a limited number of such persons may be granted licences to practise medicine in Palestine, such number not exceeding a number to be fixed annually for the purpose by the High Commissioner. The number may be exceeded, however, if it is necessary, in order to enable foreign hospitals in Palestine whose medical staffs are recruited from abroad to secure the services of outstanding members of the medical profession from abroad. S. 8 of the principal Ordinance has been substituted by a new and more comprehensive section dealing with advertising by medical practitioners.

Merchant Shipping.—No. 32 amends No. 16 of 1926 by enabling the High Commissioner to make rules giving increased power to officers in charge of ports to regulate more effectively boats plying for hire within the ports, by the grant of licences and the marking of boats. It also increases the power of a port officer to control the movement of boats within the port.

Municipal Corporations.—No. 40 amends No. 1 of 1934 by the addition of a proviso to s. 69 (2) so as to give greater flexibility to the provisions regulating the submission and auditing of the accounts of municipal corporations.

Prevention of Crime.—No. 47 makes provision for the prevention of crime and blood feuds in tribal and village areas, by requiring the tribal Sheikh to report all crimes occurring within his area and to arrest the criminal if possible when so required, under penalty, upon his failure to do so, of being subjected to police supervision and in certain cases to a fine or imprisonment. The Ordinance also empowers the District Commissioner to take security for the keeping of the peace from families likely to indulge in blood feuds or otherwise to disturb the public tranquillity. The provisions of the Ordinance were formerly contained in the Prevention of Crime (Tribal and Village Areas) Ordinance, 1924, since repealed; certain sections have been added which correspond to similar provisions in No. 48 of 1933.

Public Health.—No. 6 consolidates and brings up to date the law relating to the sale of adulterated and unsound articles of food, hitherto contained in several Ottoman enactments and other laws in force in Palestine. It gives power to the Director of Medical Services, with the approval of the High Commissioner, to prescribe, as may be necessary, standards of quality for particular articles of food. A regular procedure is introduced for the taking of samples for analysis by appointed officers, and a duty is laid upon local authorities to require their officers to take samples to ensure the sale of food in genuine and pure condition. Selling by false weight is penalised.

Road Transport.—No. 37 amends No. 23 of 1929 so as to provide that the licence for a car which is the subject of a hire-purchase agreement shall be issued in the name of the actual possessor and not in that

of the dealer who sold the car, and also so as to provide that no licence fee shall be payable for a vehicle used solely in connexion with agriculture or solely as an ambulance.

Rural Property Tax.—No. 1 introduces a new tax in substitution for the Ottoman house and land tax and tithe in those parts of the country not being urban areas within the meaning of No. 23 of 1928, to which the High Commissioner may apply the Ordinance by order. The tax is leviable at rates varying according to the category of the land, as set out in the schedule to the Ordinance. Provision is made for the appointment of official valuers, and prescribing their duties and powers with regard to the preparation of rural property tax rolls and valuation lists, and for the assessment of industrial buildings, and for objections thereto, and appeals therefrom to appeal committees. Detailed provision is also made for the apportionment of the tax between the owners of land upon which it is assessed.

Statistics.—No. 22 authorizes the establishment of an office of statistics in Palestine for the purpose of collecting and compiling public duties of the office and the obligations of all persons towards the office.

Summary Procedure.—No. 24 varies the procedure laid down by the Ottoman Magistrates Law and the Ottoman Code of Criminal Procedure, with regard to the trial of contraventions and misdemeanours in a magistrate's court or municipal court, by providing that the court shall not be obliged to try an offender in default of appearance but may issue a warrant for his apprehension.

Trade Marks.—No. 8 amends the Trade Marks Ordinance of 1921 by replacing ss. 24, 25 and 26 by provisions on the lines of s. 91 of the Imperial Patents and Designs Acts, 1907–1932, which deal with international arrangements for mutual protection of trade marks. A new section has been added which empowers the High Commissioner in Council to apply the provisions of the above sections to any part of His Majesty's Dominions in which satisfactory provision has been made for the protection of trade marks in Palestine.

Urban Property Tax.—No. 38 amends No. 23 of 1928 by providing that new buildings shall be exempt from the tax for a period of three years, and that where an addition is made to an existing building, whereby the net annual value of the home property is increased by twenty pounds or more, the reputed owner shall not be liable to pay any increased tax in respect of such addition for a period of three years.

FOREIGN.

UNITED STATES OF AMERICA.[1]

The marked extension of the functions of government by legislation which has been noted in the past few years persists and both Federal and State Governments have continued to assume responsibility in the fields of "economic planning" and of regulation of business, agriculture and industrial relations.

The Supreme Court in *Schechter* v. *United States*[2] struck down, indeed, the Federal Government's device for regulating under the N.I.R.A. the conduct of business on a national basis, and reiterated the lack of power

[1] Abridged from *Reports of American Bar Association*, vol. 61.

[2] 295 U.S. 495 (1935).

in Congress not only to delegate essential legislative functions to the President, but also to regulate matters which do not constitute or directly affect interstate commerce, but the Federal Government reaffirmed in 1935 the principles expressed in the labour clause of the N.I.R.A. and attempted plenary regulation of the coal industry (Bituminous Coal Conservation Act of 1935, Public No. 402). It may be noted also that several States have shown some inclination to restrict competitive practices in favour of group control by industries resembling that attempted on a national scale under the N.I.R.A.

Following decisions of the Supreme Court pronouncing the Frazier-Lemke Act[1] and the Railroad Retirement Act[2] invalid, these statutes were amended to meet constitutional objections. The Agricultural Adjustment Act [3] was also amended by Public No. 320 to avoid undue delegation of power and to eliminate price-fixing.

Governmental manipulation of credit sources to prevent undesirable fluctuations in business activity is envisaged in the Banking Act (Public No. 305, Title II). Regulation and reform of corporate financing on the part of public utilities was undertaken by the Federal Government in the bitterly contested Holding Company Act (Public, No. 333, Title I).

Perhaps the most impressive legislative innovation, however, is the enactment of the social security programme brought forward by the President. The Federal Social Security Act (Public, No. 271) in creating a nation-wide programme of unemployment compensation, of contributory old age pensions, of care for other handicapped groups, and of community welfare is a milestone in social legislation.

The Social Security Act, in providing for, and depending upon, co-ordination of the States' efforts for the accomplishment of its purposes, represents a growing trend in social and economic legislation. Recent pronouncements of the Supreme Court, delimiting the powers of the Federal Government, have made clear the need for co-operative action by the States and the United States and between the States, to effect much desired social and economic reforms. Much of the important legislation of 1935 is responsive to this need.

There has also been a trend on the part of the States toward complementing and supplementing Federal activities in a manner which is characterized by greater assumption of responsibility by the States. Thus, a considerable body of legislation attempts to apply in intrastate commerce the regulatory theories and methods of the N.R.A. codes and the Agricultural Adjustment Act, and the principles declared in Federal labour legislation.

The possibilities of dealing with social problems by means of interstate compacts has been recognized. Progress has been made in adoption of uniform State laws ; and outside of the uniform laws drafted by the National Conference there has been a considerable tendency on the part of the States toward enactment of similar or identical legislation.

Foreign Affairs and National Defence.—Anxiety lest the United States become embroiled in the European situation led to the adoption by Congress of the Neutrality Act (Public Res., No. 67). The Act required the President to proclaim the outbreak of war between two or more States, and provided that after such proclamation it should be

[1] S. 75 of the Bankruptcy Act as added March 3, 1933, c. 204, s. 1, 47 Stat. 1470.
[2] Act of June 27, 1934, c. 868, 48 Stat. 1283.
[3] Act of May 12, 1933, c. 25, Title I, 48 Stat. 32.

unlawful to export implements of war to such States, or to a neutral port for transhipment to a belligerent. The Act also makes it unlawful, after the President's proclamation, for any American ship to carry arms to any belligerent port or to a neutral port for transhipment. The Act does not affect neutral trade, nor does it prohibit loans to belligerents or affect trade in any article of war except munitions.

The Act also established a permanent system for regulation of dealers in munitions through a system of registry and licensing. It directed the President to proclaim that any person travelling on a vessel of a belligerent does so at his own risk. Other provisions authorized the President, after proclamation, to regulate entry and departure of submarines into and from ports or territorial waters of the United States, and authorized him to require bond from ships leaving United States ports, conditioned upon non-delivery of goods to belligerent ships, and to prohibit subsequent departures of any ship forfeiting such bond.

Of equal significance as affecting the relations of the United States and foreign States is the 50 per cent. increase in appropriations for military and naval departments in 1936 (Public, No. 29). An increase of more than 35 per cent. in the enlisted strength of the army is contemplated. Appropriations for the Navy Department amounting to $460,000,000 were made for various purposes, including the commencement of new warships, the purchase of planes, and increase in personnel (Public, No. 163, Public, No. 260). These appropriations represent an increase of 60 per cent. over last year's appropriation.

The Senate ratified the 1925 Traffic in Arms Convention which requires licensing and publicity for all shipments of munitions and provides that exporting countries must obtain permission from the Governments of importing countries before selling arms within their borders.

Commerce.—On May 27, 1935, the Supreme Court held unconstitutional the National Industrial Recovery Act, as delegating to the President an essential legislative function, and further, on the ground that the attempted regulation exceeded the power of Congress under the commerce clause and invaded the domain of the States in so far as it extended to intrastate transactions which only indirectly affected interstate commerce.[1] Following this decision the N.I.R.A. was amended to delete all provisions relating to promulgation and enforcement of codes (Public Res., No. 26). Thus curtailed, the Act was extended to April 1, 1936.

Early in the session Congress enacted a new law (Public, No. 14) to replace the "hot oil" clause of the N.I.R.A. which had been held unconstitutional by the Supreme Court as a delegation of legislative authority.[2] Like its predecessor this Act seeks to minimize the evils of unrestricted withdrawal and sale in interstate commerce of petroleum products.

It is interesting to compare with the Act the Interstate Compact to Conserve Oil and Gas to which Texas (c. 181), Oklahoma (cc. 240, 242), Kansas (c. 215), New Mexico (cc. 1, 312), Colorado and Illinois have become parties. Each party State agrees to enact specific measures for the conservation of oil and gas. One provision of the Compact expressly states that its purpose is not to authorize party States to limit the produc-

[1] *Schechter* v. *United States*, 295 U.S. 495 (1935).
[2] *Panama Refining Co.* v. *Ryan*, 293 U.S. 388 (1935).

tion of oil and gas for the purpose of stabilizing or fixing its price " or to promote regimentation." The Compact has received the consent of Congress (Public Res., No. 64).

A flood of State legislation providing for price maintenance followed in the wake of the *Schechter* decision invalidating the N.R.A. codes. The subject of retail price maintenance has been agitated, however, for many years, and the collapse of the codes would seem to have been only the immediate cause of the present legislative movement. Illinois (S.B. 398), Iowa (c. 106), Maryland (c. 212), New Jersey (c. 58), New York (c. 976), Oregon (c. 295), Pennsylvania (No. 115), Washington (c. 177) and Wisconsin (c. 522) adopted statutes substantially identical, declaring that no contract relating to the sale or resale of a commodity which bears the trade mark, brand or name of the producer or owner, and which is in fair and open competition with commodities of the same general class, shall be deemed illegal because it contains certain provisions. The provisions enumerated include obligations on the part of the buyer not to resell except at the stipulated price, and, affirmatively, to exact similar agreements from his vendee. Resales by court order, or of damaged goods, or in closing out of stock for purposes of discontinuing delivery of the commodity in question are excepted. The most controversial provision of the Acts is one defining as unfair competition, and making actionable at the suit of any person damaged thereby, the wilful advertising, offering for sale or selling of any commodity at less than the price stipulated in any such contract, whether or not the person so advertising, offering for sale or selling is a party to the contract. The Acts expressly exclude contracts between producers, or between wholesalers or between retailers, as to wholesale or retail prices.

A new measure adopted by California (c. 47) makes unlawful the sale of any commodity at less than cost. In the case of distributors, the invoice or replacement cost is to be taken ; in the case of producers, cost of raw materials, labour and all overhead expenses must be included in computing cost. Violation of the Act is a misdemeanour, to be prosecuted by the Attorney-General, and may also be enjoined at the suit of any person, municipal or public corporation, or trade association. Triple damages are recoverable.

Supervision of transportation and communication has become so familiar an example of the Federal regulatory functions that assumption of jurisdiction over motor carriers is in no way remarkable. The Federal Motor Carrier Act (Public, No. 255) provides for licensing of transportation brokers and of private carriers. It depends for its administration on co-operation between State and Federal authorities, although it deals only with interstate commerce. The States' powers of taxation and regulation of intrastate commerce upon their own highways are expressly excluded from its effect.

A system of Federal regulation of motor carriers utilizing State administrative officers has been advocated for some time. It seems desirable not only because of the great volume of work already committed to the Interstate Commerce Commission, but also because of the nature of the motor carrier industry. Primarily, it is an industry of small units. Further, interstate operations constitute a relatively small portion of the total commerce conducted by motor carriers, and interstate activities of each unit are confined for the most part to a few States. Since the problems of the industry are, in the main, local rather than national,

State administrative agencies are competent to deal with them. Historical precedents for State-Federal co-operation may be drawn from administration of the Volstead Act and the Food and Drug Act.

The development of holding company systems of amazingly complicated structure and enormous power which has accompanied the extraordinary growth in recent years of the electric light and power industry has created problems with which, apparently, State authorities are not competent to deal. This situation, together with the current business depression, resulted in the enactment, in spite of strong opposition, of the Public Utilities Holding Company Act (Public, No. 333). The Act is aimed at the suppression of certain holding company activities and corporate practices deemed prejudicial to interstate commerce. Supervision of holding companies is placed in the hands of the Securities and Exchange Commission which also has power, by ruling, to grant exemptions. The sanction for such supervision is s. 4 of the Act which makes interstate service operations, security or corporate transactions, or other business in interstate commerce unlawful for any holding company not registered with the commission. Ownership or control of any operating utility engaged in such interstate business is also prohibited, and the mails and other instrumentalities of interstate commerce may not be used for any of the activities which the Act seeks to regulate.

The Commission must scrutinize every proposed issue or alteration of securities, and may forbid the transaction. Standards to ensure sound financing are set forth in detail.

The Act was held unconstitutional by the District Court in Maryland in November 1935, but the Supreme Court has not yet passed on this question.[1] A large proportion of the holding companies have refused to register pursuant to the Act on the grounds of its alleged unconstitutionality.

Agriculture.—Pursuant to a recommendation by the President, the Federal Agricultural Adjustment Act was also amended in an effort to ensure its constitutionality and strengthen procedure under it (Public, No. 320). Price-fixing provisions were eliminated for all agricultural commodities except milk. A new clause, designed to protect consumers, provided that no step might be taken to maintain prices above "fair exchange value." The Act was held unconstitutional, however, in *United States* v. *Butler*,[2] a case brought before the Act was amended, and on a ground not affected by the amendments, namely as an attempt, through economic pressure, to compel submission to Congressional regulation of a subject reserved to the States. An attempt to regulate agricultural production in conjunction with soil conservation is now being made.

Several of the States had adopted agricultural adjustment Acts. These, unlike the State industrial recovery Acts, were so designed as to be independent of the Federal Act, and continue to be significant. In general they govern both production and commerce in agricultural commodities.

New legislation regulating the marketing of milk was enacted in California (c. 401), Connecticut (c. 135), Alabama (No. 163), Delaware (c. 150), Hawaii (Series B–56), Massachusetts (c. 126), Michigan (c. 175,) New Hampshire (c. 21), New York (cc. 401–405), Montana (c. 189), Oregon (cc. 67, 69), Vermont (pp. 193, 387), Florida (c. 17163) and Maine

[1] See *In re American States Public Service Co.*

[2] 56 Sup. Ct. 312 (1936).

(c. 112). In some cases such regulation is new, in other cases existing statutes were extended or continued. A council has been set up by ten of the eastern States to consider methods of co-operation in the marketing of milk, and a special committee has been appointed to work out means of reaching a compact.

Soil Erosion.—Recognizing floods and dust storms which devastated large portions of the country in the last few years as symptoms of a national problem, Congress initiated a permanent national programme for the control and prevention of soil erosion (Public, No. 46). A Soil Conservation Service is established in the Department of Agriculture, to which is assimilated the organization established under the soil erosion provisions of the N.I.R.A. The objectives of the Federal policy include the preservation of resources and of navigable rivers, protection of public health and of public welfare by flood control. The execution of preventive measures upon private lands is authorized when consent of the interested persons shall have been obtained. As a condition of such assistance the Secretary of Agriculture is authorized to require State legislation, imposing suitable restrictions on use of private lands, agreements relating to the permanent use of such lands and contributions to the beneficial operations.

Upon this organization has recently been placed the additional task of carrying out the policies of the former Agricultural Adjustment Act, to whose problems the mechanism evolved under the Soil Conservation Act was considered appropriate.

Money and Banking.—Use of the banking and credit mechanism of the country to mitigate unstabilizing influences affecting the levels of production, trade and prices has been much discussed during the past three years. Title II of the Banking Act (Public, No. 305) provides authority for such regulatory activity. It gives to the Federal Reserve Board, now to be known as the Board of Governors of the Federal Reserve System, power to change the existing requirements as to the amount of reserves to be kept against demand or time deposits by member banks, but the present requirement may not be diminished, or increased to more than twice the present amount. It is also authorized to prescribe rules by which Federal reserve banks may make advances to any bank upon its time or demand notes having maturities of four months or over, at a rate of at least one-half of one per cent. higher than the highest discount rate of the reserve banks.

A new Federal Open Markets Committee is established, whose members are to be the board of governors and five members elected by the Federal reserve banks. This committee is to decide when Federal reserve banks shall engage in open market operations, and the banks may not decline to carry out such decisions. Regulations concerning such transactions are to be adopted by the committee and transmitted to the banks.

The Banking Act is an omnibus one. The first title amends s. 12b of the Federal Reserve Act to make permanent the Federal deposit insurance provided for in the Banking Act of 1933. The amount of individual deposits fully insured is reduced to $5,000. After July 1942, State banks having deposits of $1,000,000 or more must join the Federal Reserve System to enjoy continued insurance of their deposits. Increased authority over banking practices is given to the Federal Deposit Insurance Corporation. Title III contains a number of technical amendments.

Protection of Debtors.—Governmental intervention to facilitate debtor-creditor adjustments continued during 1935. The extent to which adjustment of rights and obligations may be compelled under the Frazier-Lemke Amendment to the Bankruptcy Act has been restricted, however. The Supreme Court by a unanimous opinion held invalid that part of the Act which permitted a bankrupt farmer to retain possession of and reacquire at appraised value property subject to mortgage, without the consent of the mortgagee, as a deprivation of property without compensation. An amendment was enacted to meet this objection by specific proviso (Public, No. 384). By another Act the definition of farmers under the National Bankruptcy Act was extended to include livestock farmers (Public, No. 60).

California (p. 1905) set up a Farm Adjustment Commission to aid in voluntary adjustments of farmers' obligations and to co-operate with the Federal Farm Credit Administration. Wisconsin (cc. 319, 482) enacted new mortgage moratorium legislation and in connexion therewith created mediation boards to bring about adjustments. Attempt at mediation is made compulsory in the new proceedings provided for foreclosures on homes. A number of other States enacted moratorium laws or extended those previously enacted.

Industrial Relations.—One of the most ambitious Acts of the 74th Congress is the National Labour Relations Act (Public, No. 198). It is based on the theory that the refusal by employees to bargain collectively results in labour disputes whose intent or necessary effect is to burden interstate and foreign commerce. The Act proposes to eliminate or diminish the causes of such disputes by encouraging collective bargaining and protecting workers in their right of association. Interference with employees, restraining or coercing them in their organization or collective bargaining, domination of or interference with the formation of administration of any labour organization, encouragement or discouragement of membership in any labour organization by discrimination in hiring or in terms of employment, refusal to bargain collectively with employee representatives, or discharge of or discrimination against an employee on account of his having filed a charge against an employer, are declared to be unfair practices. The National Labour Relations Board is re-created as a quasi-judicial body and given exclusive jurisdiction to prevent unfair practices " affecting commerce." Violations are punishable by fine or imprisonment or both. The Board may institute hearings before itself, by service of complaint and notice. It has also investigatory powers whenever a question affecting commerce arises.

The Act provides for collective bargaining by representatives of employees designated by the majority of employees in a unit appropriate for the purpose, on behalf of all employees in such unit. To the Board is assigned the task of deciding in each case whether such unit is the employer unit, craft unit, plant unit or subdivision thereof, and of conducting elections when controversy arises " affecting commerce." Determination, in the first instance, whether an employer has refused to bargain collectively with the representatives of his employees devolves upon the Board. The National Labour Relations Act, however, would seem to be concerned with the form of negotiation, and the equitable selection of employee representatives rather than with the securing of agreements as an outcome of the negotiations. The Act expressly reserves to employees the right to strike.

A number of States have also declared a public policy against refusal by employers to bargain collectively. Maryland (c. 574), New York (c. 477) and North Dakota (c. 247) passed legislation patterned after the Federal Norris-LaGuardia Act, prohibiting the use of injunctions to restrain breaches of "yellow-dog contracts" and limiting the issue of injunctions in labour disputes generally. Massachusetts (c. 407) strengthened its statute on this subject. Some thirteen States now have similar Acts. Under these statutes injunctions may be issued only after hearing, the procedure being prescribed, and only upon finding of specified facts. It must appear that the police are unable or unwilling to furnish adequate protection and that greater injury will be inflicted upon the plaintiff by denial than upon the defendant by the granting of each item of relief. No injunction may prohibit certain kinds of conduct, including picketing not involving fraud, violence or breach of the peace.

Further interstate co-operation for the maintenance of wage and hour standards is, apparently, to be anticipated. Sixteen State Governments, including a number of western and southern States, were represented officially at a meeting of a permanent conference on interstate labour compacts held in New Jersey. While the proposed hours of labour compact was reserved for further consideration, it was recommended that ratification of a proposed child labour compact and of the minimum wage compact be urged upon the various States. If successful, this movement may supplant Federal supervision of labour such as that attempted in the N.R.A., or contemplated under the proposed child labour amendment.

It may be noted that the treaty power may in future provide a basis for general labour legislation by Congress. In August 1934, the United States became a member of the International Labour Convention.[1] The General Conference of that organization adopted a series of draft conventions, dealing *inter alia* with hours of labour and employment of women in coal mines and hours of labour in glass-bottle factories and other factories. Pursuant to the Constitution of the Convention,[2] the United States must, within the present year, bring these conventions and recommendations "before the authority or authorities within whose competence the matter lies, for the enactment of legislation, or other action." Under the decision in *Missouri* v. *Holland*,[3] it is clear that the Federal Government may enter into treaties pertaining to matters which otherwise would be exclusively within the reserved powers of the States. The only question is whether labour conditions are a proper subject of international treaty. Since the organization of the International Labour Convention in 1919, over thirty labour conventions drafted by it have been ratified, the number of adherents varying from three to thirty.

The legislation of the several States in the United States pertaining to conditions of labour is, at the present time, sufficiently more advanced than the minimum conditions prescribed by the drafts of international conventions to be presented to the Senate that no intermediate reforms from that source are to be expected. An increasing field for Federal action is presented however.

Social Security and Public Welfare.—By the Social Security Act

[1] See Proclamation of September 10, 1934.
[2] Part XIII of the Treaty of Versailles, Art. 405.
[3] 252 U.S. 416 (1920).

(Public, No. 271) a system of Federal old age annuities is created to which equal contributions from employees and employers are exacted by the imposition of taxes on wages earned and compensation paid. The tax provisions and those for payment of benefits are set forth in separate titles, however, apparently in an attempt to ensure constitutionality. Pensions based on wages received after 1936, and amounting to about $15 per month in most cases, will be payable after 1942 to persons over 65 years of age. Agricultural employees and those engaged in domestic service are not within the provisions of the Act.

Responsibility for going forward with the rest of the programme is left to the States. Grants-in-aid are made for allotment among States which have approved plans for various types of welfare assistance. Standards for each type of plan are set forth in the Act. A substantial part of the financing of a plan must be assumed by the State before allotment of Federal money will be made.

A different technique is used for inducing the States to set up unemployment insurance systems. An excise tax is levied on all employers of eight or more, against which may be credited the amount of contributions to an approved State fund for unemployment compensation. Agricultural and domestic employments are excluded from the scheme, as in the case of old age pensions. The required provisions for State plans include several designed to safeguard labour. Compensation may not be denied for refusal to accept new work available on account of a labour dispute, or if the wages or conditions offered fall substantially below the prevailing standard, or if accepting such work would prevent membership in any *bona fide* labour organization.

A number of States had " accepted " the Social Security programme in advance. During 1935 a dozen States adopted new old age assistance laws.

Unemployment plans were less widely adopted; from the list of States adopting such plans several of the leading industrial States are notably absent.

The Federal Act expressly provides that no person required under a State law to make payments to an unemployment fund shall be relieved from compliance on the ground that he is engaged in interstate commerce. The overlapping of State Acts may, however, cause some difficulty. Several States have limited the application of their statutes to situations where the greater part of the work is to be performed within the State (California, New Hampshire, Wisconsin, District of Columbia).

The national campaign for better housing conditions has been carried forward by numerous State laws looking toward co-operation with the Federal Government.

Relief.—Although no strikingly new features of a major character were introduced into relief legislation in 1935, adjustments to secure full benefit of the facilities previously established constituted no inconsiderable part of the legislative business of the year. Banks in most of the States have been authorized to accept the benefits of loan insurance under the National Housing Act and to invest in obligations issued or insured by various Federal agencies. The four-billion dollar Federal Emergency Relief appropriation (Public Res., No. 11) is noteworthy because of its size alone. Interest on all Federal land bank loans was reduced, and terms of direct loans to farmers on first and second mortgages were extended to January 1, 1940 (Public, No. 87). New loans by the Farm

Credit Administration to farmers for crop production and similar purposes were authorized (Public, No. 11). The Reconstruction Finance Corporation was also extended for two years (Public, No. 1).

Significant in this field is the prevalence of legislation authorizing instalment payment of delinquent taxes, liberalizing provisions for redemption of property and reducing interest rates on delinquencies.

Taxation.—Various new types of taxation widely adopted by the States in recent years are interesting. A number of States enacted sales tax laws in 1935, and taxes were imposed in several States on the privilege of engaging in the business of selling, computed on gross income from sales. Several of these statutes provide for abatement of the tax should the Federal Government enact a sales tax distributable to the States.

The number of chain-store taxes has been increased. Imposition of a tax graduated on a basis of the number of units operated has been upheld by the Supreme Court.[1] A graduated sales tax varying in rate with the amount of gross business was held unconstitutional, however, as a denial of equal protection.[2]

Looking forward toward simplification and harmonization of the tax systems of the country, an Interstate Commission on conflicting taxation and a Tax Revision Council, upon which Federal, State and local governments are represented, have been organized.

Public Safety and Morals.—Important progress was made in the direction of better co-operation among the States in combating crime. At a meeting held in New Jersey the Interstate Commission on Crime made recommendations which may be expected to bear fruit in 1936. The Uniform Narcotic Act, the Uniform Act to Secure the Attendance of Witnesses from without the State in Criminal Cases and the Uniform Criminal Extradition Act were widely adopted. California's Narcotic Act (c. 813) is somewhat more comprehensive.

Restrictions of sale and possession of firearms were imposed in Indiana (c. 63), Georgia (No. 397), (machine guns), Idaho (c. 23), Massachusetts (c. 290), South Dakota (c. 208) and Washington (c. 172). A law adopted in New York (c. 506), Kansas (c. 229), Utah (c. 120) and Oklahoma (c. 17) requires a person charged with crime to furnish, on demand, particulars respecting testimony which he expects to introduce to prove an alibi. A California law (pp. 1941, 1942) permits comment on the failure of the accused to take the stand, and also permits comment on the evidence by the trial judge. Departments of Justice were established in New Mexico (c. 119), California (p. 1619) and South Dakota (c. 97). Wyoming (p. 79) set up a Commission for the Prevention of Crime. A Bureau of Investigation was created as a part of the New York Police Department (c. 697).

Several regulations to reduce the hazards of motor vehicle operation were also widely adopted. California (c. 27), Colorado (c. 164), Delaware (c. 35), Indiana (c. 41), New Hampshire (c. 72), Illinois (S.B. 502, s. 20), Ohio (p. 88), Wisconsin (c. 134), North Carolina (c. 394, taxis and buses) and North Dakota (c. 178, taxis and buses), required that cars be equipped with "safety glass." Colorado (c. 164), Connecticut (c. 290), Delaware (c. 38), Illinois (S.B. 502), Indiana (c. 41), Massachusetts (c. 393) and Utah (c. 48) provided for periodic inspection of motor vehicles.

An interesting phenomenon was the enactment by Indiana (c. 208), New York (c. 263), Michigan (No. 127), Illinois (S.B. 335), New Jersey

[1] *Fox* v. *Standard Oil Co.*, 294 U.S. 87 (1935).
[2] *Stewart Dry Goods Co.* v. *Lewis*, 294 U.S. 550 (1935).

(c. 279), Pennsylvania (No. 189) and Alabama (No. 356) of substantially identical statutes abolishing actions for alienation of affection, breach of promise, criminal conversation and seduction and making prosecution of such actions or private settlement criminal. However, the Michigan Act is not comprehensive in relation to alienation of affection and the Illinois and Pennsylvania Acts do not apply to seduction. The New York law has been held unconstitutional by a lower court.

Arizona (c. 67), Georgia (Res. No. 54), Massachusetts (c. 370), Michigan (No. 23), New Jersey (c. 155), Vermont (No. 88) and Texas (c. 330) joined the group of States requiring teachers to take allegiance oaths. The Georgia Act may be attacked as unconstitutional, for it also forbids the advocacy of overthrow of the Constitution, without excepting advocacy of change by democratic means.[1]

Michigan enacted a new sedition Act (No. 126). Arkansas (No. 33), Delaware (c. 144), Indiana (c. 325) and Tennessee (c. 72) took the novel precaution of providing that no political party advocating overthrow of the Government by violence, or carrying on a programme of sedition or treason, shall be recognized or given a place on the ballot.

[1] See *Stromberg* v. *California*, 283 U.S. 359 (1931) holding invalid a California law forbidding display of a red flag as an emblem of opposition to organized government.

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THE JOURNAL OF COMPARATIVE LEGISLATION AND INTERNATIONAL LAW

THIRD SERIES—Vol. XIX, Part I.

Six Shillings. February 1937.